

**AGRICULTURE COMMITTEE**  
**ADMINISTRATIVE RULES REVIEW**  
*Table of Contents*  
*2005 Legislative Session*

**IDAPA 02 - DEPARTMENT OF AGRICULTURE**

<b><i>02.01.04 - Rules Governing the Idaho Preferred™ Promotion Program</i></b>	
Docket No. <b><i>02-0104-0401</i></b> .....	3
<b><i>02.02.14 - Rules for Weights and Measures</i></b>	
Docket No. <b><i>02-0214-0401</i></b> .....	7
<b><i>02.03.01 - Rules Governing Pesticide Management Plans for Ground Water Protection</i></b>	
Docket No. <b><i>02-0301-0401</i></b> (New Chapter) .....	10
<b><i>02.03.03 - Rules Governing Pesticide and Chemigation Use and Application</i></b>	
Docket No. <b><i>02-0303-0401</i></b> .....	25
<b><i>02.04.03 - Rules Governing Animal Industry</i></b>	
Docket No. <b><i>02-0403-0401</i></b> .....	34
<b><i>02.04.06 - Requirements for Licensed Dairy Plants</i></b>	
Docket No. <b><i>02-0406-0401</i></b> .....	39
<b><i>02.04.07 - Grade A Condensed/Dry Milk and Whey Products</i></b>	
Docket No. <b><i>02-0407-0401</i></b> (Chapter Repeal) .....	43
<b><i>02.04.08 - Rules Governing Grade A Milk and Milk Products</i></b>	
Docket No. <b><i>02-0408-0401</i></b> .....	45
<b><i>02.04.09 - Rules Governing Methods of Making Sanitation Ratings of Milk Shippers</i></b>	
Docket No. <b><i>02-0409-0401</i></b> .....	49
<b><i>02.04.10 - Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers</i></b>	
Docket No. <b><i>02-0410-0401</i></b> .....	53
<b><i>02.04.12 - Rules of the Department of Agriculture Governing the Standards for the Fabrication of Single-Service Containers and Closures for Milk and Milk Products</i></b>	
Docket No. <b><i>02-0412-0401</i></b> (Chapter Repeal) .....	57

# Senate Agriculture Affairs Committee

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## ADMINISTRATIVE RULES REVIEW

## Table of Contents

---

<b>02.04.15 - Rules Governing Beef Cattle Animal Feeding Operations</b>	
Docket No. <b>02-0415-0401</b> .....	59
<b>02.04.19 - Rules Governing Domestic Cervidae</b>	
Docket No. <b>02-0419-0401</b> .....	67
<b>02.04.25 - Rules Governing Private Feeding of Big Game Animals</b>	
Docket No. <b>02-0425-0401</b> (New Chapter) .....	84
<b>02.04.26 - Rules Governing Livestock Marketing</b>	
Docket No. <b>02-0426-0401</b> (New Chapter) .....	91
<b>02.06.02 - Rules Pertaining to the Idaho Commercial Feed Law</b>	
Docket No. <b>02-0602-0401</b> .....	101
Docket No. <b>02-0602-0402</b> .....	105
<b>02.06.05 - Rules Governing Diseases of Hops (<i>Humulus lupulus</i>)</b>	
Docket No. <b>02-0605-0301</b> .....	108
<b>02.06.12 - Rules Pertaining to the Idaho Fertilizer Law</b>	
Docket No. <b>02-0612-0401</b> .....	110
Docket No. <b>02-0612-0402</b> .....	119
<b>02.06.26 - Rules Governing Seed Potato Crop Management Areas</b>	
Docket No. <b>02-0626-0401</b> .....	122
<b>02.06.41 - Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001</b>	
Docket No. <b>02-0641-0401</b> .....	128
Docket No. <b>02-0641-0402</b> .....	131
<b>IDAPA 51 - IDAHO BEEF COUNCIL</b>	
<b>51.01.01 - Idaho Beef Council Rules</b>	
Docket No. <b>51-0101-0401</b> .....	134

# **Senate Agriculture Affairs Committee**

## **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

### **02.01.04 - RULES GOVERNING THE IDAHO PREFERRED™ PROMOTION PROGRAM**

**DOCKET NO. 02-0104-0401**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-112, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule clarified the requirements for certain products to participate in the voluntary Idaho Preferred™ promotion program. The changes were for wine, honey, honey-related products, nursery products and beef products. These changes had been requested by industry.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, volume 04-10, pages 24 and 25.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Laura Johnson, (208) 332-8533.

DATED this 28th day of October, 2004.

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#### ***The Following Notice Was Published With The Temporary And Proposed Rule***

**EFFECTIVE DATE:** The effective date of the temporary rule is November 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-112, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Idaho Preferred™ Promotion Program****Docket No. 02-0104-0401**  
**PENDING RULE**

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scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**These changes will clarify the requirements for certain products to participate in the voluntary Idaho Preferred™ promotion program. The changes are for wine, honey, honey-related products, nursery products and beef products. These changes have been requested by industry.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Industry has requested that the requirements for these products be clarified. The voluntary program is a benefit to industry. This change will allow them to participate immediately.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**NEGOTIATED RULEMAKING:** Informal negotiated rulemaking was conducted by the Department. This included an agriculture industry rules advisory committee that met in November, 2003. The specific language being added has been approved by the respective commodity organizations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Laura Johnson, Bureau Chief, at (208) 332-8533.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 9th day of August, 2004.

Patrick A. Takasugi  
Director  
Department of Agriculture  
2270 Old Penitentiary Road  
Boise, Idaho 83712

# Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Idaho Preferred™ Promotion Program**

**Docket No. 02-0104-0401**  
**PENDING RULE**

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Phone: 208-332-8500  
Fax: 208-334-2170

## THE FOLLOWING IS THE TEXT OF THE PENDING RULE

### 200. PRODUCT QUALIFICATION.

**01. Authority of Determination.** The Director shall have the sole authority in determining the eligibility of a product for participation in the program. (3-16-04)

**02. General Product Qualifications.** Except as specified in this chapter, or by written order of the Director, products must meet or exceed the following criteria: (3-16-04)

**a.** Fresh produce, commodities, and meat bearing the Idaho Preferred™ logo shall be one hundred percent (100%) Idaho grown or raised. (3-16-04)

**b.** Processed foods and beverages shall contain a minimum of twenty percent (20%) agricultural content that has been grown or raised in Idaho. The percentage of Idaho agricultural content and the percentage of value added to the product in the state of Idaho, shall total no less than eighty percent (80%) of the total value of the product. Value is determined as a percentage of the wholesale price. (3-16-04)

**c.** Non-food agricultural products must be at least fifty percent (50%) agricultural content by weight and that agricultural content must have been grown or raised in Idaho. (3-16-04)

**03. Potatoes.** Only certification marks owned or administered by the Idaho Potato Commission may be branded on potatoes grown in Idaho unless prior Idaho Potato Commission approval in writing is secured and granted for the use of additional words or designs. Any person or participant applying to the Idaho Preferred™ program, with the intention to promote Idaho-grown potatoes or products made from Idaho-grown potatoes, shall provide proof of such permission prior to making application with the Department. (3-16-04)

**04. Wine.** Wines shall contain a minimum of ninety-five percent (95%) Idaho grapes. (11-1-04)T

**05. Nursery Stock.** Nursery stock shall have been grown in Idaho a minimum of one (1) growing season or growing cycle. (11-1-04)T

**06. Beef and Beef Products.** Beef and beef products shall come from cattle that: (11-1-04)T

**a.** Were born, raised and harvested in the United States. No cattle that originate from

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Idaho Preferred™ Promotion Program**

**Docket No. 02-0104-0401**  
**PENDING RULE**

outside the United States may qualify for the Idaho Preferred™ logo. (11-1-04)T

**b.** Reside in Idaho at least twelve (12) months prior to harvest. The twelve (12) months need not be contiguous, but must be verifiable. (11-1-04)T

**c.** Reside their entire lives in Idaho if harvested prior to twelve (12) months of age. (11-1-04)T

**d.** Are processed in federally inspected plants and meet marbling and age requirements for USDA grade Select or better. (11-1-04)T

**07. Apicultural Products.** Products produced by honey bees including raw honey, wax, pollen, and propolis shall be one hundred percent (100%) Idaho origin. Processed honey shall be eighty percent (80%) Idaho origin. (11-1-04)T

**048. Exceptions.** The Director shall have the authority to establish product qualification requirements specific to individual products and commodities by written order. (3-16-04)

## Senate Agriculture Affairs Committee

### IDAPA 02 - DEPARTMENT OF AGRICULTURE

#### 02.02.14 - RULES FOR WEIGHTS AND MEASURES

DOCKET NO. 02-0214-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 71-111, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The complete text of the proposed rule was published in the August 4, 2004 Idaho Administrative Bulletin, Vol. 04-8, pages 17 and 18. No comments were received by the department on the proposed rule. The pending rule is being adopted as proposed.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Tom Schafer, Bureau Chief at (208) 332-8690.

DATED this 13th day of September, 2004.

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#### *The Following Notice Was Published With The Proposed Rule*

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 71-111, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 18, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules for Weights and Measures**

**Docket No. 02-0214-0401**  
**PENDING RULE**

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To adopt by reference the 2005 edition of the National Institute of Standards and Technology Handbook 44, Specifications Tolerances, and Other Technical Requirements for Weighing and Measuring Devices. To amend the mailing address for ISDA Bureau of Weights and Measures.

**FEE SUMMARY:** No fee is being imposed or increased by this rulemaking.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted because of the simple nature of the proposed amendments.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Tom Schafer at 332-8690.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 25, 2004.

DATED this 14th day of June, 2004.

Patrick A Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Rd.  
PO Box 790, Boise, ID 83701  
(208)332-8500 Phone / (208)334-2170 Fax

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### **004. INCORPORATION BY REFERENCE.**

**01. Required Reference Materials.** The 2004~~5~~ edition of Handbook No. 44 of the National Institute of Standards and Technology, United States Department of Commerce, "Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices," hereby incorporated by reference, shall be the specifications, tolerances and other technical requirements for commercial weighing and measuring devices, unless otherwise stated in these rules. (2-13-04)( )

**02. Required Reference Materials for Checking Prepackaged Commodities.** The 4th Edition of Handbook No. 133 of the National Institute of Standards and Technology, United States Department of Commerce, "Checking the Net Contents of Packaged Goods," hereby incorporated by reference, shall be the authority in checking packaged commodities, unless otherwise stated in these rules. (2-13-04)

**03. Local Availability.** Copies of Handbook No. 44 and Handbook No. 133 are on file



## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules for Weights and Measures****Docket No. 02-0214-0401**  
**PENDING RULE**

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with the State. Law Library and the Idaho State Department of Agriculture, 2216 Kellogg Lane, Boise, Idaho, 83712, or may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C., 20402. Copies are available for downloading on the internet by going to <http://nist.gov>. (2-13-04)

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

**01. Office.** The Idaho State Department of Agriculture, Bureau of Weights and Measures. (2-13-04)

**02. Office Hours.** Office hours are from 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays as designated by the state of Idaho. (2-13-04)

**03. ~~Mailing and~~ Street Address.** ISDA Bureau of Weights and Measures, 2216 Kellogg Lane, Boise, ID 83712. (~~2-13-04~~)( )

**04. Mailing Address.** ISDA Bureau of Weights and Measures, PO BOX 790, Boise, ID 83701. ( )

## **Senate Agriculture Affairs Committee**

### **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

#### **02.03.01 - RULES GOVERNING PESTICIDE MANAGEMENT PLANS FOR GROUND WATER PROTECTION**

#### **DOCKET NO. 02-0301-0401 (NEW CHAPTER)**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-3418, 22-3419, 22-3420, and 22-3421, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**This chapter establishes a process for responding to pesticide detections in ground water.**

The department held five public hearings around the state prior to the September 22, 2004 public comment deadline. The department hired a Hearing Officer and court reporters for each hearing. The Hearing Officer executed his Decision and Recommendations on October 15, 2004, and on November 8, 2004, the Director executed a Decision adopting the Recommendations of the Hearing Officer. As a result of the Director's Decision, the legal authorities now cited in the rule are Sections 22-3418, 22-3419, 22-3420, and 22-3421, Idaho Code.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the September 1, 2004 Idaho Administrative Bulletin, Vol. 04-9, pages 13 through 23.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the proposed rule, contact Gary Bahr, Agricultural Bureau Chief at 208-332-8597.

DATED this 8th day of November, 2004.

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### ***The Following Notice Was Published With The Proposed Rule***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Pesticide Management Plans for Ground Water Protection**

**Docket No. 02-0301-0401 (New Chapter)**  
**PENDING RULE**

this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 22-3418 and 22-3419, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be held as follows:

**Date:** September 8, 2004 **Time:** 7:00 p.m.  
**Location:** Silver Lake Motel, 6160 Sunshine St., Coeur d'Alene, Idaho

**Date:** September 9, 2004 **Time:** 7:00 p.m.  
**Location:** Red Lion Hotel, 621 21<sup>st</sup> Street, Lewiston, Idaho

**Date:** September 13, 2004 **Time:** 7:00 p.m.  
**Location:** Nampa Civic Center, 311 3<sup>rd</sup> Street South, Nampa, Idaho

**Date:** September 14, 2004 **Time:** 7:00 p.m.  
**Location:** Shilo Inn, 1586 Blue Lakes Blvd. N, Twin Falls, Idaho

**Date:** September 15, 2004 **Time:** 7:00 p.m.  
**Location:** Best Western Cottontree Inn, 1415 Bench Road, Pocatello, Idaho

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: This chapter establishes a process for responding to pesticide detections in ground water.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted with the assistance of an advisory committee composed of industry representatives and other interested parties, and a technical committee composed of industry representatives. These rules were developed by consensus of both committees in numerous meetings.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Gary Bahr, Agricultural Bureau Chief at 208-332-8597.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 22, 2004.

DATED this 28th day of July, 2004.

Michael E. Cooper

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Pesticide Management Plans for Ground Water Protection**

**Docket No. 02-0301-0401 (New Chapter)**  
**PENDING RULE**

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Acting Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790, Boise, Idaho 83701  
Phone: 208-332-8503  
Fax: 208-334-2170

### THE FOLLOWING IS THE TEXT OF THE PENDING

#### **IDAPA 02** **TITLE 03** **CHAPTER 01**

#### **RULES GOVERNING PESTICIDE MANAGEMENT PLANS** **FOR GROUND WATER PROTECTION**

##### **000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Sections 22-3418, 22-3419, 22-3420, and 22-3421, Idaho Code. ( )

##### **001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.03.01, “Rules Governing Pesticide Management Plans for Ground Water Protection.” ( )

**02. Scope.** This chapter establishes a process for responding to pesticide detections in ground water. ( )

##### **002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. ( )

##### **003. ADMINISTRATIVE APPEALS.**

There is no provision for administrative appeal before the Idaho Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. ( )

##### **004. INCORPORATION BY REFERENCE.**

The following documents are incorporated by reference into this chapter: ( )

**01. IDAPA 58.01.11, “Ground Water Quality Rule,” Subsection 200.01.a. of the Department of Environmental Quality.** Copies can be obtained from the Office of Administrative Rules, 650 W. State St., PO Box 83720, Boise ID, 83720-0306 or electronically accessed at [www2.state.id.us/adm/adminrules/rules/idapa58/0111.pdf](http://www2.state.id.us/adm/adminrules/rules/idapa58/0111.pdf). ( )

**02. Idaho Agricultural Pollution Abatement Plan.** The March 2003 edition

## Senate Agriculture Affairs Committee

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### **DEPARTMENT OF AGRICULTURE Pesticide Management Plans for Ground Water Protection**

**Docket No. 02-0301-0401 (New Chapter)  
PENDING RULE**

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published by the Idaho Soil Conservation Commission. Copies may be accessed electronically at [www.scc.state.id.us/PDF/AgPlan.pdf](http://www.scc.state.id.us/PDF/AgPlan.pdf). ( )

**03. The 2004 Publication by the United States Department of Agriculture, Natural Resources Conservation Service, Conservation Practice Standard, Pesticide Management Code 595.** Copies of this document may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. ( )

**04. The 2004 Publication by the United States Department of Agriculture, Natural Resources Conservation Service, Conservation Practice Standard, Agrichemical Mixing Facility Code 702.** Copies of this document may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. ( )

**05. The 2004 Publication by the United States Environmental Protection Agency, Office of Water, 2004 Edition of the Drinking Water Standards and Health Advisories, EPA 822-R-04-005.** Copies can be accessed electronically at [www.epa.gov/waterscience/drinking/standards/dwstandards.pdf](http://www.epa.gov/waterscience/drinking/standards/dwstandards.pdf). ( )

### **005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.**

**01. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ( )

**02. Mailing Address.** The mailing address for the central office is Idaho Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. ( )

**03. Street Address.** The central office of the Idaho Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. ( )

### **006. PUBLIC RECORDS ACT COMPLIANCE.**

These rules are public records available for inspection and copying at the Department. ( )

### **007. -- 009. (RESERVED).**

### **010. DEFINITIONS.**

The Idaho Department of Agriculture adopts the definitions set forth in Section 22-3401, Idaho Code, and the following definitions: ( )

**01. Aquifer.** A geological unit of permeable saturated material capable of yielding economically significant quantities of water to wells and springs. ( )

**02. Beneficial Uses.** Current or future uses of ground water supplies including, but not limited to domestic, industrial, agricultural, aquacultural, and mining. ( )

**03. Best Management Practice.** A practice or combination of practices determined to be the most effective and practical means of preventing or reducing pesticide contamination to

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Pesticide Management Plans for Ground Water Protection****Docket No. 02-0301-0401 (New Chapter)**  
**PENDING RULE**

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ground water and interconnected surface water from nonpoint and point sources to achieve water quality goals and protect the beneficial uses of the water. ( )

**04. Constituent.** Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance occurring in ground water. ( )

**05. Contaminant.** Any chemical, ion, radionuclide, synthetic organic compound, microorganism, waste or other substance which does not occur naturally in ground water or which naturally occurs at a lower concentration. ( )

**06. Contamination.** The direct or indirect introduction into ground water of any contaminant caused in whole or in part by human activities. ( )

**07. Ground Water.** Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. ( )

**08. Health Advisory Level.** Guidance for the maximum allowable or acceptable daily concentration of a pesticide in drinking water in the absence of or prior to a MCL being set. ( )

**09. Maximum Contaminant Level.** Maximum allowable or acceptable daily concentration of a pesticide in drinking water that may be consumed over a lifetime. ( )

**10. Pesticide Management Standard.** The United States Department of Agriculture Natural Resource Conservation Service Conservation Practice Standard, Idaho Pesticide Management Code 595, or the Idaho Agricultural Pollution Abatement Plan -- Pesticide Management Standard Component Practice. ( )

**11. Pesticide Use.** The mixing, application, handling, transport, storage, display, distribution, and disposal of pesticides and their containers. ( )

**12. Projected Future Beneficial Uses.** Various uses of ground water, such as drinking water, aquaculture, industrial, mining or agriculture, that are practical and achievable in the future based on hydrogeologic conditions, water quality, future land use activities and social/economic considerations. ( )

**13. Reference Dose.** Allowable or acceptable dose of a pesticide in terms of mg pesticide/kg body weight that can be ingested in one day (acute reference dose) or on a daily basis over a lifetime (chronic reference dose). ( )

**14. Reference Point.** Numerical indicators of the toxicity of a substance based on test data and other reliable health effects information. ( )

**15. Susceptibility.** A method of describing the flow of water to, and through, the ground water resource based on physical factors such as hydraulic conductivity, porosity, hydraulic gradients, recharge, interactions with surface water, and transport through the unsaturated zone without considering specific natural or anthropogenic sources of contamination. ( )

## Senate Agriculture Affairs Committee

**DEPARTMENT OF AGRICULTURE**  
**Pesticide Management Plans for Ground Water Protection**

**Docket No. 02-0301-0401 (New Chapter)**  
**PENDING RULE**

**16. Vulnerability.** Ground water characterized by a potential for contaminants to enter and be transported within the flow system. Determinations of ground water vulnerability will include consideration of land use practices and aquifer characteristics. ( )

### **011. ABBREVIATIONS.**

- 01. APAP.** Agricultural Pollution Abatement Plan. ( )
- 02. BMP.** Best Management Practice. ( )
- 03. DEQ.** Department of Environmental Quality. ( )
- 04. EPA.** Environmental Protection Agency. ( )
- 05. HAL.** Health Advisory Level. ( )
- 06. MCL.** Maximum Contaminant Level. ( )
- 07. NRCS.** Natural Resources Conservation Service. ( )
- 08. PMP.** Pesticide Management Plan. ( )
- 09. QAPP.** Quality Assurance Project Plan. ( )
- 10. QMP.** Quality Management Plan. ( )
- 11. RfD.** Reference Dose. ( )
- 12. SCC.** Soil Conservation Commission. ( )
- 13. USDA.** United States Department of Agriculture. ( )

### **012. -- 049. (RESERVED).**

### **050. CHEMICAL SPECIFIC PMPS.**

**01. Creating PMPs.** The Director shall develop and implement chemical specific PMPs (Section 200) for certain pesticides in geographical areas as determined in Section 400 when: ( )

**a.** The level of a pesticide found in ground water is equal to or greater than fifty percent (50%) of the reference point and is scientifically validated; ( )

**b.** EPA restricts the sale or use of a pesticide in the state, or otherwise initiates action against a pesticide because of ground water concerns for a pesticide, unless such PMP is not deemed necessary by the Director; ( )

## Senate Agriculture Affairs Committee

---

**DEPARTMENT OF AGRICULTURE**  
**Pesticide Management Plans for Ground Water Protection**

**Docket No. 02-0301-0401 (New Chapter)**  
**PENDING RULE**

---

c. EPA's action, restriction, or prohibition will be implemented unless the state develops an adequate PMP; or ( )

d. A pesticide is conditionally registered by EPA because of ground water concerns. ( )

**02. PMP Compliance.** No person shall use a pesticide in a manner inconsistent with the chemical specific PMP within a designated geographical area. ( )

**051. -- 099. (RESERVED).**

### **100. CONTENTS OF A CHEMICAL SPECIFIC PMP.**

**01. Required Elements of a PMP.** ( )

a. Actions to prevent pesticide contamination that are based on beneficial uses and vulnerability that address applicable aspects of the pesticide use; and ( )

b. Actions to prevent or minimize further presence of the pesticide in ground water and to provide protection for the present and projected future beneficial use of the ground water. ( )

**02. Elements That May be Included in a PMP.** A PMP may include but is not limited to the following elements: ( )

a. Identification of geographical areas where a pesticide may be used; ( )

b. Pesticide, soil, hydrogeological, and meteorological characteristics; ( )

c. BMPs; ( )

d. Identification of ground water areas with pesticide detection(s); ( )

e. Certification, licensing, training, and education requirements for persons using the pesticide; ( )

f. Identification and establishment of an area of pesticide restriction requiring preventative measures; ( )

g. Pesticide application rates and timing and related use criteria; ( )

h. Integrated pest management information; ( )

i. Other requirements for pesticides, as set forth in the Idaho Pesticide and Chemigation Law (Title 22, Chapter 34, Idaho Code), and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application"; or ( )



## Senate Agriculture Affairs Committee

**DEPARTMENT OF AGRICULTURE**  
**Pesticide Management Plans for Ground Water Protection**

**Docket No. 02-0301-0401 (New Chapter)**  
**PENDING RULE**

- j. Other requirements as listed by the EPA in rule or guidance. ( )

### **101. MANAGEMENT PLANS ADOPTED BY RULEMAKING AND REVIEW.**

**01. Adoption Through Rulemaking.** The Director shall adopt chemical specific PMPs through rulemaking. ( )

**02. PMP Review.** The Director shall review chemical specific PMPs every two (2) years to determine if the requirements contained in the plans need to be modified based on new scientific data and information. ( )

### **102. -- 149. (RESERVED).**

### **150. GROUND WATER QUALITY REFERENCE POINTS.**

**01. Reference Points.** The Director will use reference points for pesticides in ground water, based on the following order of availability: ( )

a. Idaho rules of DEQ, IDAPA 58.01.11, "Ground Water Quality," Subsection 200.01.a. specific to pesticide primary constituent standards which were adopted from EPA MCLs; or ( )

b. EPA Health Advisory Levels (HALs) identified in the 2004 Edition of the EPA Drinking Water Standards and Health Advisories, EPA 822-R-04-005; or ( )

c. EPA Reference Dose (RfD) identified in the 2004 Edition of the EPA Drinking Water Standards and Health Advisories, EPA 822-R-04-005; or ( )

d. A reference point based on: ( )

i. Best scientific information currently available on adverse effects of the contaminant(s); and ( )

ii. Protection of a beneficial use(s); and ( )

iii. Practical quantitation levels for the pesticides, if they exceed the levels identified in IDAPA 58.01.11, "Ground Water Quality Rule," Subsection 200.01.a. ( )

**02. HAL and RfD Guide.** The Director shall use the EPA's HAL and RfD number associated with the effects on a person weighing seventy (70) kilograms and drinking two (2) liters of water per day over a lifetime. ( )

### **151. -- 199. (RESERVED).**

### **200. RESPONSE TO A PESTICIDE DETECTION.**

This section describes the four (4) response levels for responding to pesticide detections in ground water. ( )

## Senate Agriculture Affairs Committee

---

**DEPARTMENT OF AGRICULTURE**  
**Pesticide Management Plans for Ground Water Protection****Docket No. 02-0301-0401 (New Chapter)**  
**PENDING RULE**

---

**01. Level One Response.** When a pesticide or its metabolite(s) is detected at or above the detection limit yet below twenty percent (20%) of the reference point, the Director: ( )

- a. Shall notify well users or well owners of pesticide(s) detection; ( )
- b. Shall continue ground water monitoring; ( )
- c. May provide additional information to pesticide applicators within vulnerable areas; ( )
- d. May review use practices, soils, hydrogeology, and vulnerability within the area of pesticide detection(s); ( )
- e. May review state records for previous point source or potential violations in accordance with the Idaho Pesticide and Chemigation Law (Title 22, Chapter 34, Idaho Code); ( )
- f. May review existing monitoring data within area to check for previous detections; ( )
- and g. May conduct outreach in local area applicable to relevant data and information; ( )
- h. May encourage voluntary BMPs consistent with the APAP. ( )

**02. Level Two Response.** When a pesticide or its metabolite(s) is detected at twenty percent (20%) to less than fifty percent (50%) of the reference point, the Director: ( )

- a. Shall implement actions in Subsection 200.01 in the area of pesticide detection; ( )
- b. Shall establish area of pesticide concern, in accordance with Section 400, within area of pesticide detection; ( )
- c. Shall develop a monitoring plan and monitor to determine trends and fluctuations in pesticide concentrations; ( )
- d. Shall determine likely source(s) while notifying and working with the appropriate parties including but not limited to: pesticide registrant(s), dealer(s), applicator(s) and producer(s) to determine likely source(s); ( )
- e. Shall determine if pesticide detection(s) is from point or nonpoint source; ( )
- f. Shall promote voluntary BMPs or other measures; evaluate BMP effectiveness, and change BMPs if needed; ( )
- g. Shall require the utilization of the Idaho NRCS Conservation Practice Standard, Pesticide Management Code 595. ( )

## Senate Agriculture Affairs Committee

---

**DEPARTMENT OF AGRICULTURE**  
**Pesticide Management Plans for Ground Water Protection**

**Docket No. 02-0301-0401 (New Chapter)**  
**PENDING RULE**

---

**h.** May develop a chemical specific PMP per pesticide, unless already mandated through EPA Rule to do so; ( )

**i.** May monitor additional domestic wells in the hydrogeological up gradient and down gradient area; and ( )

**j.** May conduct site specific pesticide use inspections within the area of detection(s). ( )

**03. Level Three Response.** When a pesticide or its metabolite(s) is detected at fifty percent (50%) to less than one hundred percent (100%) of the reference point, the Director shall: ( )

**a.** Implement actions in Subsections 200.02.a. through 200.02.e., and 200.02.g. through 200.02.j. in the area of pesticide detection; ( )

**b.** Establish an area of pesticide restriction, in accordance with Section 400 and Section 22-3419, Idaho Code, when the Director determines ground water contamination resulted from the application of a pesticide in accordance with the label; ( )

**c.** Restrict the use of the pesticide according to Section 22-3418, Idaho Code; ( )

**d.** Install monitoring wells as soon as possible, if the Director determines installation to be necessary based on severity of risk, to evaluate ground water quality, flow direction, and the effectiveness of preventative measures; ( )

**e.** Assist well users or well owners within the area of pesticide restriction with health information and alternative water source information; and ( )

**f.** Inspect the pesticide applicator records within the restricted area. ( )

**04. Level Four Response.** When a pesticide or its metabolite(s) is detected at or above one hundred percent (100%) of the reference point, the Director shall: ( )

**a.** Implement actions in Subsection 200.03 in the area of pesticide detection; ( )

**b.** Establish an area of pesticide prohibition, in accordance with Section 400 and Section 22-3418, Idaho Code, when the Director has determined ground water contamination resulted from the application of a pesticide in accordance with the label; ( )

**c.** Implement use prohibition area(s); ( )

**d.** Assist persons within the use prohibition area with health and alternative water source information; ( )

**e.** Determine effectiveness of regulatory actions. ( )

## Senate Agriculture Affairs Committee

**DEPARTMENT OF AGRICULTURE**  
**Pesticide Management Plans for Ground Water Protection**

**Docket No. 02-0301-0401 (New Chapter)**  
**PENDING RULE**

**05. Mixing and Loading Prohibited.** No person shall mix or load the prohibited pesticide product in an identified pesticide prohibition area unless the mixing and loading is conducted over a spill containment surface which complies with the Idaho NRCS Conservation Practice Standard, Agrichemical Mixing Facility Code 702. ( )

**06. Prohibition Areas.** No person shall apply a prohibited pesticide within the corresponding pesticide area boundaries of the area of pesticide prohibition as identified in Section 400. ( )

**201. -- 299. (RESERVED).**

### **300. GROUND WATER MONITORING PROGRAMS.**

**01. Monitoring Programs.** The Director shall conduct monitoring programs to: ( )

**a.** Determine whether residues of pesticides are present in ground water; ( )

**b.** Refine vulnerability mapping products or other assessment tools; ( )

**c.** Determine the effectiveness of BMPs; and ( )

**d.** Determine the effectiveness of regulatory approaches. ( )

**02. Conduct Monitoring Programs.** The Director shall conduct monitoring programs in compliance with the Department's EPA approved QMP and applicable QAPPs. ( )

**03. Evaluation.** The Director shall evaluate ground water pesticide(s) data from sources other than the Department for use in implementing this rule. ( )

**301. -- 399. (RESERVED).**

### **400. DETERMINING PESTICIDE AREA BOUNDARIES.**

Section 400 describes the methods for determining the pesticide area boundaries for the response levels in Section 200. ( )

**01. Pesticide Area Boundary Factors.** In determining the area of pesticide concern, restricted area, or prohibition area the Director shall implement Section 200 and may consider but not be limited to the following factors: ( )

**a.** Pesticide detections from reliable ground water test samples; ( )

**b.** Number and frequency of detections; ( )

**c.** Statistical trends of detections; ( )

**d.** Location of detections; ( )

## Senate Agriculture Affairs Committee

**DEPARTMENT OF AGRICULTURE**  
**Pesticide Management Plans for Ground Water Protection**

**Docket No. 02-0301-0401 (New Chapter)**  
**PENDING RULE**

- e. Hydrogeology of the aquifer; ( )
- f. Well depth and construction; ( )
- g. Aquifer vulnerability and susceptibility; ( )
- h. Pesticide physical and chemical characteristics; ( )
- i. Pesticide use; or ( )
- j. Other scientifically defensible information. ( )

**02. Determining Boundaries.** An area of pesticide concern, restricted area, or a prohibition area may encompass land areas which, in the Director's judgment, are susceptible to pesticide contamination of ground water based on the factors identified in Subsection 400.01. The boundaries of an area of pesticide concern, restricted area, or a prohibition area shall be sufficient to meet Section 200 requirements. The boundaries may include any of the following: ( )

- a. Mapped boundaries between soil types or other hydrogeologic features; ( )
- b. Ground water or surface water divides such as watershed boundaries; ( )
- c. Legal land description boundaries; ( )
- d. Public roads; or ( )
- e. Other recognizable boundaries. ( )

**401. -- 409. (RESERVED).**

### **410. REPEALING SPECIFIC PESTICIDE AREAS.**

**01. Repealing an Area of Pesticide Concern.** The Director may repeal or reduce the size of an area of pesticide concern in response to pesticide contamination in ground water if all the conditions in Subsection 410.01 are met: ( )

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the area of pesticide concern at which the concentration of a pesticide and its metabolites previously were found at twenty percent (20%) to fifty percent (50%) of the reference point, show that the concentration at the well sites has fallen to and remains less than twenty percent (20%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the area of pesticide concern designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. ( )

b. Tests conducted at other well sites in the area of pesticide concern during the same

## Senate Agriculture Affairs Committee

---

**DEPARTMENT OF AGRICULTURE**  
**Pesticide Management Plans for Ground Water Protection****Docket No. 02-0301-0401 (New Chapter)**  
**PENDING RULE**

---

retesting period, if any, reveal no other concentrations of the pesticide or its metabolites that exceed twenty percent (20%) of the reference point; and ( )

c. The Director determines, based on credible scientific evidence, that use of a pesticide product in the area of pesticide concern is not likely to cause a renewed detection between twenty percent (20%) to fifty percent (50%) of the reference point. ( )

**02. Repealing an Area of Pesticide Restriction.** The Director may repeal or reduce the size of an area of pesticide restriction in response to ground water pesticide contamination if all the conditions in Subsection 410.02 are met: ( )

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the area of pesticide restriction at which the concentration of a pesticide and its metabolites previously were found at fifty percent (50%) to less than one hundred percent (100%) of the reference point, show that the concentration at the well sites has fallen to and remains less than fifty percent (50%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the area of the pesticide restriction designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. As areas of pesticide restriction are repealed, the area automatically becomes an area of pesticide concern; ( )

b. Tests conducted at other well sites in the area of pesticide restriction during the same retesting period, if any, reveal no other concentrations of the pesticide or its metabolites that exceed fifty percent (50%) of the reference point; and ( )

c. The Director determines, based on credible scientific evidence, that use of a pesticide product in the area of pesticide restriction is not likely to cause a renewed exceedance of fifty percent (50%) of the reference point. ( )

**03. Repealing an Area of Pesticide Use Prohibition.** The Director may repeal or reduce the size of an area of pesticide use prohibition in response to ground water pesticide contamination if all the conditions in Subsection 410.03 are met: ( )

a. Tests on at least three (3) consecutive ground water samples, drawn from each well site in the prohibition area at which the concentration of a pesticide and its metabolites previously attained or exceeded the reference point, show that the concentration at that well site has fallen to and remains less than fifty percent (50%) of the reference point. The three (3) consecutive samples shall be collected at each well site at intervals of at least six (6) months, with the first sample being collected at least six (6) months after the effective date of the pesticide use prohibition designation. A monitoring well approved by the Director may be substituted for any well site which is no longer available for testing. As areas of pesticide prohibition are repealed, the area automatically becomes an area of pesticide concern; ( )

b. Tests conducted at other well sites in the area of pesticide prohibition during the same retesting period, if any, reveal no other concentrations of the pesticide and its metabolites that exceed fifty percent (50%) of the reference point; and ( )

## Senate Agriculture Affairs Committee

---

**DEPARTMENT OF AGRICULTURE**  
**Pesticide Management Plans for Ground Water Protection****Docket No. 02-0301-0401 (New Chapter)**  
**PENDING RULE**

---

c. The Director determines, based on credible scientific evidence, that renewed use of a pesticide product in the area of pesticide prohibition is not likely to cause a renewed violation of the reference point. ( )

**411. -- 419. (RESERVED).**

**420. ADVISORY COMMITTEE.**

When pesticide management practices are needed under Section 200, the Director's advisory committee, as established pursuant to Section 22-103, Idaho Code, shall provide appropriate guidance on this rule. This advisory committee shall include but is not limited to: applicators from the area of pesticide detection; pesticide, water user, and commodity groups; University of Idaho Extension staff and specialists; and staff from the USDA, NRCS, SCC, DEQ, and the Department. The duties of the advisory committee include but are not limited to the following: ( )

**01. Review Existing Information.** Review the existing information related to the area of pesticide detection and develop pesticide management practices options; ( )

**02. Recommendations.** Make recommendations to the Director for approval of pesticide management practices prior to implementation at the voluntary and regulatory levels; ( )

**03. Research.** Evaluate the potential for gaining government or private research or cost share funding; and ( )

**04. Evaluate Effectiveness.** Review information related to pesticide management practices effectiveness and make recommendations for changing and improving pesticide management practices. ( )

**421. PESTICIDE USE AND RECORD KEEPING REQUIREMENTS.**

Pursuant to Title 22, Chapter 34, Idaho Code, and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application," the Director shall inspect pesticide records to meet the need as described in Section 200. ( )

**422. -- 449. (RESERVED).**

**450. RESEARCH.**

The Director shall authorize cooperative pesticide and ground water quality protection research programs with state agencies, university systems and associated agricultural experiment stations, federal agencies, and other appropriate organizations and persons. ( )

**451. -- 459. (RESERVED).**

**460. EDUCATIONAL PROGRAMS.**

The Department, in cooperation with the University of Idaho Extension Service, shall develop and conduct appropriate educational programs. ( )

**461. -- 469. (RESERVED).**

## Senate Agriculture Affairs Committee

---

**DEPARTMENT OF AGRICULTURE**  
**Pesticide Management Plans for Ground Water Protection**

**Docket No. 02-0301-0401 (New Chapter)**  
**PENDING RULE**

---

**470. EXEMPTIONS.**

Notwithstanding any provision of this chapter, the Director may authorize the use of a pesticide for bona fide research purposes. A person seeking a research exemption shall apply to the Director in writing. The application shall describe the proposed research, and the amounts and locations of proposed pesticide applications. The Director may require an applicant to file other information which the Director considers necessary for review of the application. ( )

**471. -- 479. (RESERVED).**

**480. PENALTIES.**

Any person who violates or fails to comply with any provision of these rules shall be subject to penalties listed under Section 22-3423, Idaho Code. ( )

**481. -- 999. (RESERVED).**



## Senate Agriculture Affairs Committee

### IDAPA 02 - DEPARTMENT OF AGRICULTURE

#### 02.03.03 - RULES GOVERNING PESTICIDE AND CHEMIGATION USE AND APPLICATION

DOCKET NO. 02-0303-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-3421, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The proposed rule change revises the required waiting periods following any failed pesticide examination to one week. The current rules require a waiting period of one week following the first failure, two weeks following the second failure and one month following any subsequent examination failures. The industry is of the opinion that the waiting periods essentially eliminate individuals from consideration of employment due to the shortness of the application season and have requested that the waiting period be reduced to one week. The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Vol. 04-10, pages 26 through 31.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact George Robinson, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8593.

DATED this 15th day of November, 2004.

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#### *The Following Notice Was Published With The Proposed Rule*

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section(s) 22-3421, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be

## Senate Agriculture Affairs Committee

---

**DEPARTMENT OF AGRICULTURE  
Pesticide & Chemigation Use & Application**

**Docket No. 02-0303-0401  
PENDING RULE**

---

scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This rule change is a result of program changes requested by the License Advisory Committee. The current rules require a potential pesticide applicator to wait two (2) weeks before retaking a failed exam after the second attempt and all subsequent failures require a one month waiting period. The industry has expressed concerns that requiring a potential employee to wait fourteen to thirty (14-30) days to retake an exam practically eliminates him from consideration of employment, due to the shortness of the application season. The industry has expressed support for having a one week waiting period, which is what this rule change incorporates. The existing rules affect the potential employment of approximately fifty (50) individuals per year.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

No fees or charges will be imposed or increased.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted, however these changes were recommended by the Pesticide License Committee, representing the pesticide application industry.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact George Robinson, Bureau Chief at (208) 332-8593.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 8th Day of September, 2004.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
Boise, ID 83712  
Phone (208) 332-8500  
Fax: (208) 334-2170

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

## Senate Agriculture Affairs Committee

---

**DEPARTMENT OF AGRICULTURE**  
**Pesticide & Chemigation Use & Application**

**Docket No. 02-0303-0401**  
**PENDING RULE**

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### **100. LICENSING PROFESSIONAL APPLICATORS AND PESTICIDE DEALERS.**

#### **01. Demonstration Of Competence. (3-20-97)**

**a.** Professional applicators shall not recommend the application or make an application of any pesticide for any purpose, unless they have demonstrated competence for that purpose, which competence must be demonstrated by passing Department examinations and becoming licensed in the appropriate categories listed in Subsection 100.02. (3-20-97)

**b.** An applicant shall demonstrate competency in the following areas: (3-20-97)

**i.** Labels and labeling, including terminology, instructions, format, warnings and symbols. (3-20-97)

**ii.** Safety factors and procedures, including protective clothing and equipment, first aid, toxicity, symptoms of poisoning, storage, handling, transportation and disposal. (3-20-97)

**iii.** Laws, rules, and regulations governing pesticides. (3-20-97)

**iv.** Environmental considerations, including the effect of climate and physical or geographical factors on pesticides, and the effects of pesticides on the environment, and the animals and plants living in it. (3-20-97)

**v.** Mixing and loading, including interpretation of labels, safety precautions, compatibility of mixtures, and protection of the environment. (3-20-97)

**vi.** Methods of use or application, including types of equipment, calibration, application techniques, and prevention of drift and other types of pesticide migration. (3-20-97)

**vii.** Pests to be controlled, including identification, damage characteristics, biology and habitat. (3-20-97)

**viii.** Types of pesticides, including formulations, mode of action, toxicity, persistence, and hazards of use. (3-20-97)

**ix.** Chemigation practices involving the application of chemicals through irrigation systems, calibration, management, and equipment requirements. (4-5-00)

**x.** For use of the Livestock Protection Collar (LPC), in addition to the requirements of Subsection 100.01.b.i. through 100.01.b.viii., professional applicators shall have training in and knowledge of the following: (3-19-99)

**(1)** Characteristics and habits of predatory animals, and particularly, coyotes. (3-19-99)

**(2)** Properties of the collars and of Sodium Fluoroacetate (Compound 1080). (3-19-99)

## Senate Agriculture Affairs Committee

---

### **DEPARTMENT OF AGRICULTURE Pesticide & Chemigation Use & Application**

---

**Docket No. 02-0303-0401  
PENDING RULE**

(3) Recordkeeping requirements set forth in Subsection 150.01 that will additionally include a record of each animal found poisoned or suspected of having been poisoned as a result of the use of Compound 1080, including target and non-target species. (3-19-99)

(4) The requirement for immediate reporting of suspected poisonings of non-target species and suspected poisonings of humans or domestic animals by the use of Compound 1080 to the United States Environmental Protection Agency (US EPA) and the Idaho State Department of Agriculture (ISDA). (3-19-99)

(5) How to properly dispose of animal remains, vegetation, or soil contaminated by a punctured LPC. (3-19-99)

(6) Practical treatment of Compound 1080 poisonings in humans and domestic animals. (3-19-99)

(7) Safe handling, attachment, and storage of LPC collars. (3-19-99)

(8) The requirement to post and maintain bilingual (English/Spanish or other second language appropriate for the region) signs at logical points of access to areas where LPCs are in use. (3-19-99)

(9) The requirement to perform inspections once every week to ensure that collars in use are accounted for, properly positioned, and intact. (3-19-99)

(10) Knowledge of alternative controls of predation. (4-5-00)

xi. For use of the LPC, in addition to the requirements of Subsections 100.01.b.i. through 100.01.b.x., professional applicators shall have training in and the ability to: (3-19-99)

(1) Recognize potential hazards to humans, domestic animals, and non-target wildlife from the use of the LPC. (3-19-99)

(2) Read and understand the labeling specific to the LPC. (3-19-99)

(3) Recognize general symptoms of poisoning by Compound 1080 in humans and domestic animals and take appropriate action. (3-19-99)

(4) Recognize where the LPC can be used safely and effectively and, conversely, where alternative methods of control would be more appropriate. (3-19-99)

(5) Assess damaged LPCs to determine which can be repaired and which must be disposed of properly. (3-19-99)

(6) Properly dispose of the LPCs. (3-19-99)

**02. Certification.** A person shall be certified by passing Department examinations with a minimum of seventy percent (70%) in the categories of pesticides they apply. (3-20-97)

## Senate Agriculture Affairs Committee

---

### **DEPARTMENT OF AGRICULTURE Pesticide & Chemigation Use & Application**

---

**Docket No. 02-0303-0401  
PENDING RULE**

- a. Professional applicators shall be certified and licensed in one (1) or more of the following categories: (3-20-97)
- i. Law and Safety (LS). This shall include general knowledge of pesticides including proper use and disposal, product characteristics, first aid, labeling, and laws. Certification in this category is required when certifying in Subsections 100.02.a.ii. through 100.02.a.ix. (3-20-97)
- ii. Agriculture. For persons conducting field crop applications. Agriculture Herbicide (AH). Certification in this category shall also certify a person to make herbicide applications in rights-of-way, forests, and rangelands. Agriculture Insecticide/Fungicide (AI). Certification in this category shall also certify a person to make insecticide/fungicide applications in rights-of-way, forests, and rangelands. Soil Fumigation (SF). (4-5-00)
- iii. Forest Environment (FE). For U.S. Forest Service and Bureau of Land Management personnel, contractors, and private industry personnel who control pests in forests and on rangelands. (3-20-97)
- iv. Right-of-Way Herbicide (RW). For railroads, highway departments and others, for roadside weed control, soil sterilant herbicides, and weed control on public lands (non-crop). Certification in the Agricultural Herbicide category shall exempt the applicant from the need to certify in this category. (3-20-97)
- v. Public Health Pest (PH). For abatement districts and others controlling mosquitoes and other public health pests. (3-20-97)
- vi. Livestock Pest Control (LP). For persons treating livestock pests. (3-20-97)
- vii. Ornamental Herbicide (OH). For persons conducting outside urban or residential herbicide applications, with the exception of soil sterilant applications (see Subsection 100.02.a.iv.). Ornamental Insecticide/Fungicide (OI). For persons doing outside urban or residential insecticide and fungicide applications, including exterior applications to residential, urban or commercial buildings, excluding structural destroying pests (see Subsection 100.02.a.ix.). (4-5-00)
- viii. General Pest Control Operations (GP). For persons controlling pests in and around residential, commercial, or other buildings, excluding structural destroying pests. (3-20-97)
- ix. Structural Destroying Pest (SP). For persons involved in the control of pests which destroy wooden structures, such as bridges, houses, offices, and warehouses. (3-20-97)
- x. General Vertebrate Control (GV). For Wildlife Services (WS) personnel of the United States Department of Agriculture-Animal and Plant Health Inspection Service, for controlling vertebrates such as rodents, predators, and birds. (4-5-00)
- xi. Rodent Control (RC). For rodent districts and others, for the control of field rodents. Certification in the General Pest Control category shall exempt the applicant from the need to certify in this category. (3-20-97)

## Senate Agriculture Affairs Committee

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### **DEPARTMENT OF AGRICULTURE Pesticide & Chemigation Use & Application**

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**Docket No. 02-0303-0401  
PENDING RULE**

- xii. Aquatic Weed and Pest Control (AW). For irrigation districts, canal companies and others, for weed and pest control on aquatic sites. (4-5-00)
- xiii. Seed Treatment (ST). For persons doing treatments to protect seeds used for plant reproduction. (3-20-97)
- xiv. Commodity Pest Control (CP). For persons controlling pests in stored commodities. (3-20-97)
- xv. Potato Cellar Pest Control (PC). For persons who apply sprout inhibitors in potato cellars. (3-20-97)
- xvi. Wood Preservative (WP). For persons who apply wood preservatives. (3-20-97)
- xvii. Pest Control Consultant-Statewide (SW). For persons who make recommendations or supply technical advice concerning the use of any pesticide for agricultural purposes. (3-20-97)
- xviii. Demonstration and Research (DR). For persons who apply or supervise the use of restricted use pesticides at no charge to demonstrate the action of the pesticide or conduct research with restricted use pesticides. A person shall be eligible to license in this category by passing the Pest Control Consultant examination. (3-20-97)
- xix. Chemigation (CH). For persons who apply chemicals through an irrigation system, excluding Aquatic Weed and Pest Control applicators (see Subsection 100.02.xii.). (4-5-00)
- xx. Livestock Protection Collars (LPC). For use of Livestock Protection Collars (LPC) containing the restricted use pesticide Compound 1080 to control predatory coyotes. (3-19-99)
- b.** Pesticide Dealers shall be certified and licensed in any category listed in Subsection 100.02 that pertains to the types of restricted use pesticides sold or distributed. (3-23-98)
- c.** Persons with an active license category on June 30, 1996, shall retain said category under the rules which became effective on July 1, 1996, until the expiration of the certification period or suspension of the license by the Department. (3-23-98)
- d.** Mixer-Loaders. Effective December 31, 1998, mixer-loader licenses issued by the Department shall expire. No person shall act as a mixer-loader for a professional applicator without first obtaining annual training. (3-23-98)
  - i. Training shall be conducted and certified by the professional applicator who employs the mixer-loader. Certification of training shall be on a form prescribed by the Department and must include the signatures of both the mixer-loader and the professional applicator providing the training. (3-23-98)
  - ii. Training shall include areas relevant to the pesticide mixing and loading operation and instruction on the interpretation of pesticide labels, safety precautions, first aid, compatibility

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Pesticide & Chemigation Use & Application

Docket No. 02-0303-0401  
PENDING RULE

---

of mixtures, and protection of the environment. (3-23-98)

iii. Employers of mixer-loaders shall comply with federal and state laws related to hazardous occupations and shall provide and ensure the use of personal protective equipment required in the label directions. (3-23-98)

#### **03. Department Examination Procedures.** (3-20-97)

a. Examinations shall be administered by a designated agent. (3-20-97)

b. To pass a Department examination, professional applicators and pesticide dealers shall obtain a score of seventy percent (70%) or higher. (3-23-98)

c. Payment of examination fees shall be received by the Idaho Department of Agriculture before examination results may be released. (3-20-97)

d. A minimum waiting period of one (1) week shall be required before an applicant may retake an examination. ~~(3-20-97)~~(\_\_\_\_)

~~i. One (1) week shall be required for the first failure.~~ (3-20-97)

~~ii. Two (2) weeks shall be required for the second failure.~~ (3-20-97)

~~iii. Thirty (30) days shall be required for the third or subsequent failures.~~ (3-20-97)

**04. Licensing Periods and Recertification.** Beginning August 31, 2000, Pesticide Dealer licenses shall expire on August 31, of even numbered years and have a twenty four (24) month duration. A Pesticide Dealer License application form shall accompany each new license or license renewal request. Professional applicator licenses shall be renewed by satisfying the recertification provisions of this section. Licenses belonging to professional applicators with last names beginning with A through L, inclusive, shall expire on the last day of the year in every odd-numbered year, and licenses belonging to professional applicators with last names beginning with M through Z, inclusive, shall expire on the last day of the year in every even-numbered year. Any professional applicator with less than thirteen (13) months in the licensing period shall not be required to obtain recertification credits during the initial licensing period. The recertification period for professional applicators shall be concurrent with their two (2) year licensing period. Recertification requirements may be accomplished by complying with either Subsection 100.04.a. or 100.04.b. (4-5-00)

a. A person shall accumulate recertification credits by attending Department-accredited pesticide instruction seminars. (3-20-97)

i. A minimum of fifteen (15) credits shall be earned by a professional applicator during each recertification period. (3-23-98)

ii. A completed request for accreditation of a seminar shall be received by the Department not less than thirty (30) days prior to the scheduled seminar. Such a request shall be submitted on a form prescribed by the Department. Under exceptional circumstances, as

## Senate Agriculture Affairs Committee

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### **DEPARTMENT OF AGRICULTURE Pesticide & Chemigation Use & Application**

**Docket No. 02-0303-0401  
PENDING RULE**

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described in writing by the person requesting accreditation, the thirty (30) day requirement may be waived. (3-20-97)

iii. Credit will be given only for those parts of seminars that deal with pesticide subjects as listed in Subsection 100.01.b. No credit will be given for training given to persons to prepare them for initial certification. (3-20-97)

iv. The number of credits assigned in advance for a seminar, or a part of a seminar, shall be tentative, and may be revised by the Department if it is later found that the training does not comply with Subsection 100.04.a.iii. (3-20-97)

v. Effective July 1, 1998, a recertification credit shall be based upon one (1) credit for each one (1) hour of instruction, as described in Subsection 100.04.a.iii. Should an applicator's recertification period include credits earned prior to July 1, 1998, those credits based on one hundred fifty (150) minutes of instruction shall be converted to three (3) credits for recertification purposes. (3-23-98)

vi. Verification of attendance at a seminar shall be accomplished by validating the attendee's pesticide license, using a stamp, sticker, or other method approved by the Department. A designated agent shall ensure that such attendance records are properly completed. Verification of attendance must be submitted with the license renewal application. (3-20-97)

vii. If a person has accumulated more than fifteen (15) credits during the recertification period, the excess credits may not be carried over to the next recertification period. (3-23-98)

viii. Upon earning the recertification credits as described above, a person shall be considered by the Department to be recertified for the next recertification period corresponding with the next issuance of a license. (3-20-97)

**b.** A person shall pass the Department's recertification examinations for all categories in which a person intends to license. (3-20-97)

i. Recertification examinations may be taken by a professional applicator beginning the thirteenth month of the recertification period. (3-23-98)

ii. The examination procedures as outlined in Subsection 100.03 shall be followed. (3-23-98)

iii. In addition to examinations for categories listed under Subsections 100.02.a.ii. through 100.02.a.ix., a person must also pass a Law and Safety recertification examination. (3-23-98)

iv. Recertification shall not be achieved by passing an entry-level examination. (3-20-97)

v. Upon passing the recertification examination(s), a person shall be considered by the Department to be recertified for the next recertification period. (3-20-97)



## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Pesticide & Chemigation Use & Application**

**Docket No. 02-0303-0401**  
**PENDING RULE**

---

c. Any person who fails to accumulate the required recertification credits prior to the expiration date of their license shall be required to pass the appropriate recertification examination(s) before being licensed. (3-20-97)

**05. Licensed Professional Applicator.** Only a licensed professional applicator shall operate or supervise the operation of commercial application equipment by being present during the time of operation. (3-20-97)

**06. Interim Exemption from Pesticide Dealer Licensing and Recordkeeping.** Until such time as the director promulgates specific rules pertaining to distribution of general use pesticides (GUPs), persons selling only GUPs shall not be required to obtain a pesticide dealer license or maintain distribution records of these products. (3-30-01)

## **Senate Agriculture Affairs Committee**

### **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

#### **02.04.03 - RULES GOVERNING ANIMAL INDUSTRY**

##### **DOCKET NO. 02-0403-0401**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 22-101, and 25-207, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**This rule updates and clarifies the rules regulating the disease Trichomoniasis, and makes technical corrections.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 1, 2004, Idaho Administrative Bulletin, Vol. 04-9, pages 24 through 26.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact John Chatburn, Deputy Administrator, (208) 332-8540.

DATED this 14th day of October, 2004.

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#### ***The Following Notice Was Published With The Temporary And Proposed Rule***

**EFFECTIVE DATE:** The effective date of the temporary rule is September 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 22-101 and 25-207, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 15, 2004.

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Animal Industry**

**Docket No. 02-0403-0401**  
**PENDING RULE**

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The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This rule updates and clarifies the rules regulating the disease Trichomoniasis, and makes technical corrections.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: It confers a benefit.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted. However the Department's Trichomoniasis Taskforce provided input and reviewed the proposed rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact John Chatburn, Deputy Administrator, (208) 332-8540.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 22, 2004.

DATED this 19th day of July 2004.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790, Boise, Idaho 83701-0790  
(208) 332-8500, Fax (208) 334-4062

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### **220. TRICHOMONIASIS CONTROL AND ERADICATION PROGRAM.**

The Trichomoniasis testing season shall begin on September 1 of each year and continue until August 31 of the succeeding year. All bulls within the state of Idaho shall be tested for

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Animal Industry

Docket No. 02-0403-0401  
PENDING RULE

---

Trichomoniasis by ~~March 31~~ April 15 of each Trichomoniasis testing season, except:  
(5-3-03)(9-1-04)T

**01. Bulls in Public Grazing Allotments.** Bulls that are to be turned out on public grazing allotments shall be tested for Trichomoniasis by ~~March 31~~ April 15 of each Trichomoniasis testing season or forty-five (45) days prior to turnout on a public grazing allotment, which ever occurs first.  
(5-3-03)(9-1-04)T

**02. Virgin Bulls.** All bulls, twenty-four (24) months of age or less, which have never serviced a cow shall be exempt from the Trichomoniasis testing requirements. (5-3-03)

**a.** Such bulls shall be identified by a registered veterinarian with an official Trichomoniasis bangle tag of the correct color for the current testing season and the identification recorded on a Trichomoniasis Test and Report Form. (5-3-03)

**b.** If sold, such bulls shall be accompanied by a certificate signed by the owner or his representative attesting that the animals are virgin bulls. (5-3-03)

**03. Dairy Bulls.** All dairy bulls in dry lot operations shall be exempt from the Trichomoniasis testing requirements. Dairy bulls that are pastured or grazed must meet the Trichomoniasis testing requirements. (5-3-03)

**04. Bulls Consigned to Slaughter or to an Approved Feedlot.** Bulls consigned directly to slaughter at an approved slaughter establishment or to an approved feedlot for finish feeding for slaughter are exempt from testing requirements. (5-3-03)

**05. Bulls in Northern Idaho.** Bulls located in the area of Idaho north of the Salmon River are exempt from the annual testing requirement, ~~except: This exemption does not apply to the sale and purchase of non-virgin breeding bulls, nor does it apply to bulls imported into the state for breeding purposes.~~  
(5-3-03)(9-1-04)T

**a.** Non-virgin breeding bulls that are purchased or sold shall be Trichomoniasis tested. (9-1-04)T

**b.** Non-virgin breeding bulls that are imported into Northern Idaho shall meet the importation requirements of Section 223. (9-1-04)T

**c.** Bulls in Northern Idaho that cross into the area of Idaho south of the Salmon River shall be tested negative to a Trichomoniasis culture test within thirty (30) days prior to entering Southern Idaho and shall have had no contact with female cattle from the time of test to the time that they enter Southern Idaho, unless consigned directly to slaughter at an approved slaughter establishment or to an approved feedlot for finish feeding for slaughter. (9-1-04)T

**06. Extension of Testing Deadline.** The Administrator may grant an extension of time beyond April 15 to accomplish Trichomoniasis testing after the owner submits a written request for extension of time to the Division of Animal Industries. (9-1-04)T

**a.** The written request shall outline the reasons for the extension request and the

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Animal Industry

Docket No. 02-0403-0401  
PENDING RULE

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length of extended time being requested.

(9-1-04)T

b. The herd of bulls shall be put under Hold Order until the owner furnishes documentation that the bulls have been tested.

(9-1-04)T

### (BREAK IN CONTINUITY OF SECTIONS)

#### 223. IMPORTED BULLS.

**01. Non-Virgin Bulls.** ~~Bulls imported into the state of Idaho shall be negative to a Trichomoniasis culture test within thirty (30) days prior to import and shall have had no contact with female cattle from the time of test to the time of import.~~ Non-virgin breeding bulls may be imported into the state of Idaho provided they meet the following requirements:

~~(5-3-03)~~(9-1-04)T

a. The certificate of veterinary inspection upon which the bulls are imported shall contain a statement that "Trichomoniasis has not been diagnosed in the herd of origin." If the bull originates from a herd of bulls wherein all bulls have tested negative for Trichomoniasis since being removed from cows, the bull shall have been tested negative to a Trichomoniasis culture test within thirty (30) days prior to import and shall have had no contact with female cattle from the time of test to the time of import; or

~~(5-3-03)~~(9-1-04)T

b. If the bull originates from a herd where one (1) or more bulls or cows have been found infected with Trichomoniasis, the bull shall have three (3) consecutive negative Trichomoniasis culture tests. The samples for each test shall be collected at least seven (7) days apart and cultured for Trichomoniasis, the last test being within thirty (30) days prior to import into Idaho; or

(9-1-04)T

c. If the bull is a single bull with no prior herd test history or originates from a herd of bulls that is still with cows or that has not been tested for Trichomoniasis since being removed from cows, the bull shall have three (3) consecutive negative Trichomoniasis culture tests. The samples for each test shall be collected at least seven (7) days apart and cultured for Trichomoniasis, the last test being within thirty (30) days prior to import into Idaho.

(9-1-04)T

d. Upon arrival at their destination in Idaho, all imported bulls shall be identified with an official Trichomoniasis bangle tag of the correct color for the current testing season, except imported dairy bulls that will be in a dry lot operation are not required to be identified with an official Trichomoniasis tag upon arrival at their destination.

(5-3-03)

**02. Virgin Bulls.** Bulls twenty-four (24) months of age or less that have never serviced a cow are not required to be Trichomoniasis tested prior to import into Idaho, provided that:

(5-3-03)

a. Such bulls shall be accompanied by a certificate signed by the owner or the owner's representative attesting that the animals are virgin bulls and have never serviced a cow; and

(5-3-03)

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Animal Industry

---

Docket No. 02-0403-0401  
PENDING RULE

b. Upon arrival at their destination in Idaho, such bulls shall be identified with an official Trichomoniasis bangle tag of the correct color for the current testing season. (5-3-03)

**03. Bulls for Grazing.** Bulls that are entering Idaho for grazing purposes shall meet the Trichomoniasis test requirements of Section 220. A copy of the certificate of negative Trichomoniasis test shall accompany the grazing permit application. (5-3-03)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 234. INFECTIONS WITH OTHER TYPES OF TRICHOMONADS.

Bulls that have had a positive culture result for trichomoniasis testing may be further evaluated to determine if the organism is *Tritrichomonas foetus* or another species of trichomonad. Bulls having ~~initially~~ positive trichomoniasis culture results on the initial test will not be considered positive for trichomoniasis under the provisions of this rule if they meet the following criteria:

~~(3-20-04)~~(9-1-04)T

~~**01. Bona Fide Virgin Bull.** The bull is a virgin bull under twenty four (24) months of age and has never serviced a cow; and~~

~~(3-20-04)~~

**021. Trichomonad Organisms Identified.** The culture media containing the organisms that have been collected from the bull is forwarded to a laboratory, approved by the Administrator, that has the ability to identify the different species of trichomonad organisms and the laboratory is able to identify and report the species of trichomonad organisms present in the culture; and

~~(3-20-04)~~(9-1-04)T

**032. Tritrichomonas foetus Not Present.** None of the trichomonad organisms in the submitted culture are identified as *Tritrichomonas foetus*. (3-20-04)

## **Senate Agriculture Affairs Committee**

### **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

#### **02.04.06 - REQUIREMENTS FOR LICENSED DAIRY PLANTS**

**DOCKET NO. 02-0406-0401**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 37, Chapter 4, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule removed the “as amended” language from the 1986 rule and adopt the June 17, 2002, USDA/AMS Milk for Manufacturing Purposes and its Production and Processing, Subpart E. “Requirements for Licensed Dairy Plants”.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 32 and 33.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

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#### ***The Following Notice Was Published With The Temporary And Proposed Rule***

**EFFECTIVE DATE:** The effective date of the temporary rule is August 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) Title 37, Chapter 4, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Requirements for Licensed Dairy Plants**

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**Docket No. 02-0406-0401**  
**PENDING RULE**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This rule change will remove the “as amended” language from the 1986 rule and adopt the June 17, 2002, USDA/AMS Milk for Manufacturing Purposes and its Production and Processing, Subpart E. “Requirements for Licensed Dairy Plants”.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Protection of the public health, safety, or welfare.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Negotiated rule making was not conducted because this is a technical correction to incorporate the most recent version of the USDA/AMS Milk for Manufacturing Purposes and its Production and Processing, Subpart E. “Requirements for Licensed Dairy Plants”.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi  
Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701-0790  
(208) 332-8500  
Fax (208) 334-4062

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE**



## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Requirements for Licensed Dairy Plants

Docket No. 02-0406-0401  
PENDING RULE

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~~000.—099. (RESERVED).~~

#### **000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Title 37, Chapter 4, Idaho Code. (8-1-04)T

#### **001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is rules of the Department of Agriculture governing IDAPA 02.04.06, “Requirements for Licensed Dairy Plants”. (8-1-04)T

**02. Scope.** This chapter has the following scope: These rules shall govern the requirements for the design, construction, and operation of dairy plants licensed to process milk for manufacturing purposes. The official citation of this chapter is IDAPA 02.04.06.000 et seq. For example, this section’s citation is IDAPA 02.04.06.001. (8-1-04)T

#### **002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (8-1-04)T

#### **003. ADMINISTRATIVE APPEAL.**

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeals before the Department of Agriculture under this chapter. (8-1-04)T

#### **~~004. GENERAL INCORPORATION BY REFERENCE.~~**

~~The Department of Agriculture hereby~~ This rule incorporates by reference ~~and adopts as its own,~~ the Federal Register Volume 37, Number 68, Part II, Subpart E. “Requirements for Licensed Dairy Plants,” ~~as amended. These regulations may be procured at the State Law Library and the Idaho Department of Agriculture, 2270 Old Penitentiary Road, Boise, Idaho 83712 or may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402~~ June 17, 2002. Copies of this document may be obtained from the Idaho State Department of Agriculture central office. ~~(4-1-86)~~(8-1-04)T

#### **005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (8-1-04)T

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (8-1-04)T

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (8-1-04)T

**04. Telephone Number.** The telephone number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 332-8550. (8-1-04)T

**05. Fax Number.** The fax number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 334-4062. (8-1-04)T

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Requirements for Licensed Dairy Plants**

**Docket No. 02-0406-0401**  
**PENDING RULE**

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**006. IDAHO PUBLIC RECORDS ACT.**

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture central office. (8-1-04)T

**~~101~~007. -- 999.(RESERVED).**

## **Senate Agriculture Affairs Committee**

### **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

#### **02.04.07 - GRADE A CONDENSED/DRY MILK AND WHEY PRODUCTS**

#### **DOCKET NO. 02-0407-0401 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 37, Chapter 4, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule was to repeal this rule in its entirety. This is no longer a federal stand alone document. It has been incorporated into the 2003 Pasteurized Milk Ordinance.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, page 34.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

DATED this 29th day of October, 2004.

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***The Following Notice Was Published With The Temporary And Proposed Rule***

**EFFECTIVE DATE:** The effective date of the temporary rule is August 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) Title 37, Chapter 4, Idaho Code.

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**      **Docket No. 02-0407-0401 (Chapter Repeal)**  
**Grade A Condensed/Dry Milk and Whey Products**      **PENDING RULE**

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**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**To repeal this rule in its entirety. This is no longer a federal stand alone document. It has been incorporated into the 2003 Pasteurized Milk Ordinance.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Protection of the public health, safety, or welfare.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Negotiated rule making was not conducted because this is a technical correction to repeal this rule in its entirety.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790, Boise, Idaho 83701-0790  
(208) 332-8500, Fax (208) 334-4062

**IDAPA 02.04.07 IS BEING REPEALED IN ITS ENTIRETY.**

## **Senate Agriculture Affairs Committee**

### **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

#### **02.04.08 - RULES GOVERNING GRADE A MILK AND MILK PRODUCTS**

**DOCKET NO. 02-0408-0401**

### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 37, Chapter 4, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule was to adopt the 2003 Grade A Pasteurized Milk Ordinance by reference.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 35 and 36.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

DATED this 29th day of October, 2004.

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***The Following Notice Was Published With The Temporary And Proposed Rule***

**EFFECTIVE DATE:** The effective date of the temporary rule is August 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Grade A Milk and Milk Products****Docket No. 02-0408-0401**  
**PENDING RULE**

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procedures have been initiated. The action is authorized pursuant to Section(s) Title 37, Chapter 4, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: To adopt the 2003 Grade A Pasteurized Milk Ordinance by reference.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Protection of the public health, safety, or welfare.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Negotiated rule making was not conducted because this is a technical correction to adopt the 2003 Grade A Pasteurized Milk Ordinance by reference.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790, Boise, Idaho 83701-0790  
(208) 332-8500 / Fax (208) 334-4062

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### 001. TITLE AND SCOPE.

**01. Title.** The title of this chapter is “Rules ~~of the Department of Agriculture~~ Governing Grade A Milk and Milk Products”.  
(4-8-94)(8-1-04)T

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Grade A Milk and Milk Products

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Docket No. 02-0408-0401  
PENDING RULE

**02. Scope.** This chapter has the following scope: These rules shall govern procedures for the production, manufacture, distribution, handling, storage, quality and sale of Grade A Milk and Milk Products. The official citation of this chapter is IDAPA 02.04.08.000 et. seq. For example, this Section's citation is IDAPA 02.04.08.001. (4-8-94)

#### **002. WRITTEN INTERPRETATIONS.**

~~There are no~~ Written interpretations of these rules are contained in the "Indexes of Coded Memoranda" published by the Food and Drug Administration. (4-8-94)(8-1-04)T

#### **003. ADMINISTRATIVE APPEAL.**

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeals before the Department of Agriculture under this chapter. (4-8-94)(8-1-04)T

#### ~~004. DEFINITIONS.~~

~~The definitions for this chapter are those definitions found in: "Grade A Pasteurized Milk Ordinance," 1993 Revision as amended.~~ (4-8-94)

#### ~~005.—099. (RESERVED).~~

#### **4004. INCORPORATION BY REFERENCE.**

~~01. Title of Documents.~~ The Idaho State Department of Agriculture incorporates by reference ~~and adopts as its own,~~ the U.S. Department of Health and Human Services Public Health Service Food and Drug Administration "Grade 'A' Pasteurized Milk Ordinance," ~~1993 2003 Revision as amended, Recommendations of the United States Public Health Service/Food and Drug Administration.~~ Copies of this document may be obtained at the Idaho State Department of Agriculture central office. (4-8-94)(8-1-04)T

~~02. Location of Documents.~~ Copies of this publication are available from the Milk Safety Branch, Food and Drug Administration, Public Health Service, US Department of Health and Human Services, 200 'C' St., S.W., Washington, D.C. 20204 and through the Department of Administration, Office of the Rules Coordinator, located at 650 West State Street, Boise, Idaho 83720. (4-8-94)

#### **005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (8-1-04)T

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (8-1-04)T

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (8-1-04)T

**04. Telephone Number.** The telephone number of the Division of Animal Industries,

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Grade A Milk and Milk Products**

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**Docket No. 02-0408-0401**  
**PENDING RULE**

Dairy Bureau at the central office is (208) 332-8550.

(8-1-04)T

**05. Fax Number.** The fax number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 334-4062.

(8-1-04)T

**006. IDAHO PUBLIC RECORDS ACT.**

These rules are public records and are available for inspection and copying at the State Department of Agriculture.

(8-1-04)T

~~101~~**007. -- 999.(RESERVED).**



## **Senate Agriculture Affairs Committee**

### **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

#### **02.04.09 - RULES GOVERNING METHODS OF MAKING SANITATION RATINGS OF MILK SHIPPERS**

**DOCKET NO. 02-0409-0401**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 37, Chapter 4, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule removed the “as amended” language and adopts by reference the 2003 Revision of “Methods of Making Sanitation Ratings of Milk Shippers”.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 37 and 38.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

DATED this 29th day of October, 2004.

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#### ***The Following Notice Was Published With The Temporary And Proposed Rule***

**EFFECTIVE DATE:** The effective date of the temporary rule is August 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) Title 37, Chapter 4, Idaho Code.

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Methods of Making Sanitation Ratings of Milk Shippers****Docket No. 02-0409-0401**  
**PENDING RULE**

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**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: This rule removes the “as amended” language and adopts by reference the 2003 Revision of “Methods of Making Sanitation Ratings of Milk Shippers.”

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Protection of the public health, safety, or welfare.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Negotiated rule making was not conducted because this is a technical correction to remove the “as amended” language and adopts by reference the 2003 Revision of “Methods of Making Sanitation Ratings of Milk Shippers.”

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790, Boise, Idaho 83701-0790  
(208) 332-8500 / Fax (208) 334-4062

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### 001. TITLE AND SCOPE.

**01. Title.** The title of this chapter is “Rules ~~of the Department of Agriculture~~

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Methods of Making Sanitation Ratings of Milk Shippers

Docket No. 02-0409-0401  
PENDING RULE

Governing Methods of Making Sanitation Ratings of Milk ~~Supplies~~ Shippers”. ~~(4-8-94)~~(8-1-04)T

**02. Scope.** This chapter has the following scope: These rules shall govern procedures for the evaluation of the sanitary quality of milk and milk products, dairies, processing facilities as outlined in the Pasteurized Milk Ordinance. The official citation of this chapter is IDAPA 02.04.09.000 et seq. For example, this section’s citation is IDAPA 02.04.09.001. (4-8-94)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **003. ADMINISTRATIVE APPEAL.**

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. ~~(4-8-94)~~(8-1-04)T

#### ~~004. DEFINITIONS.~~

~~The definitions for this chapter are those definitions found in: “Methods of Making Sanitation Ratings of Milk Supplies,” 1989 Revision as amended.~~ (4-8-94)

#### ~~005.—099. (RESERVED).~~

#### ~~1004. INCORPORATION BY REFERENCE.~~

~~01. Location of Documents.~~ The Idaho State Department of Agriculture incorporates by reference ~~and adopts as its own,~~ “Methods of Making Sanitation Ratings of Milk ~~Supplies~~ Shippers,” the ~~1989~~ 2003 Revision, ~~as amended.~~ Copies of this document may be obtained at the Idaho State Department of Agriculture central office. ~~(4-8-94)~~(8-1-04)T

~~02. Location of Documents.~~ ~~Copies of this publication are available from the Milk Safety Branch, Food and Drug Administration, Public Health Service, US Department of Health and Human Services, 200 ‘C’ St., S.W., Washington, D.C. 20204 and through the Department of Administration, Office of the Rules Coordinator, located at 650 West State Street, Boise, Idaho 83720.~~ (4-8-94)

#### **005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (8-1-04)T

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (8-1-04)T

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (8-1-04)T

**04. Telephone Number.** The telephone number of the Division of Animal Industries,

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Methods of Making Sanitation Ratings of Milk Shippers**

**Docket No. 02-0409-0401**  
**PENDING RULE**

Dairy Bureau at the central office is (208) 332-8550.

(8-1-04)T

**05. Fax Number.** The fax number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 334-4062.

(8-1-04)T

**006. IDAHO PUBLIC RECORDS ACT.**

These rules are public records and are available for inspection and copying at the State Department of Agriculture.

(8-1-04)T

~~101~~**007. -- 999.(RESERVED).**

## **Senate Agriculture Affairs Committee**

### **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

#### **02.04.10 - PROCEDURES GOVERNING THE COOPERATIVE STATE-PUBLIC HEALTH SERVICE/FOOD AND DRUG ADMINISTRATION PROGRAM FOR CERTIFICATION OF INTERSTATE MILK SHIPPERS**

**DOCKET NO. 02-0410-0401**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 37, Chapter 4, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule removed the “as amended” language and adopts by reference the 2003 Revision of the “Procedures Governing the Cooperative State Public Health Services, Food and Drug Administration Program for Certification of Interstate Milk Shippers”.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, pages 39 through 41.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

DATED this 29th day of October, 2004.

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#### ***The Following Notice Was Published With The Temporary And Proposed Rule***

**EFFECTIVE DATE:** The effective date of the temporary rule is August, 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) Title 37, Chapter 4, Idaho Code.

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Program for Certification of Interstate Milk Shippers**

**Docket No. 02-0410-0401**  
**PENDING RULE**

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**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This rule removes the “as amended” language and adopts by reference the 2003 Revision of the “Procedures Governing the Cooperative State Public Health Services, Food and Drug Administration Program for Certification of Interstate Milk Shippers”.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Protection of the public health, safety, or welfare.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Negotiated rule making was not conducted because this is a technical correction to remove the “as amended” language and adopts by reference the 2003 Revision of the “Procedures Governing the Cooperative State Public Health Services, Food and Drug Administration Program for Certification of Interstate Milk Shippers”.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790, Boise, Idaho 83701-0790  
(208) 332-8500  
Fax (208) 334-4062

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

# Senate Agriculture Affairs Committee

**DEPARTMENT OF AGRICULTURE**  
**Program for Certification of Interstate Milk Shippers**

**Docket No. 02-0410-0401**  
**PENDING RULE**

## **001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is “~~Rules of the Department of Agriculture Governing~~ Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers”. (4-8-94)(8-1-04)T

**02. Scope.** This chapter has the following scope. These rules shall govern procedures for developing uniform milk sanitation enforcement methods for certification of interstate and intrastate movement of Grade A milk supplies as outlined in the “Grade A Pasteurized Milk Ordinance”. The official citation of this chapter is IDAPA 02.04.10.000 et. seq. For example, this section’s citation is IDAPA 02.04.10.001. (4-8-94)

## **(BREAK IN CONTINUITY OF SECTIONS)**

## **003. ADMINISTRATIVE APPEAL.**

Hearing and appeal rights are set forth in Title 67, Chapter 52, Idaho Code. There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. (4-8-94)(8-1-04)T

## **~~004. DEFINITIONS.~~**

~~There are no written definitions for these rules.~~ (4-8-94)

## **~~005.—099. (RESERVED).~~**

## **~~1004.~~ INCORPORATION BY REFERENCE.**

**~~01. Title of Document.~~** The Idaho State Department of Agriculture hereby incorporates by reference ~~and adopts as its own,~~ “Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers,” ~~1991~~ 2003 Revision as amended. Copies of this document may be obtained at the Idaho State Department of Agriculture central office. (4-8-94)(8-1-04)T

**~~02. Location of Document.~~** ~~Copies of this publication are available from the Milk Safety Branch, Food and Drug Administration, Public Health Service, US Department of Health and Human Services, 200 ‘C’ St., S.W., Washington, D.C. 20204 and through the Department of Administration, Office of the Rules Coordinator, located at 650 West State Street, Boise, Idaho 83720.~~ (4-8-94)

## **005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (8-1-04)T

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE****Program for Certification of Interstate Milk Shippers****Docket No. 02-0410-0401****PENDING RULE**

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**02.** **Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (8-1-04)T

**03.** **Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701. (8-1-04)T

**04.** **Telephone Number.** The telephone number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 332-8550. (8-1-04)T

**05.** **Fax Number.** The fax number of the Division of Animal Industries, Dairy Bureau at the central office is (208) 334-4062. (8-1-04)T

**006.** **IDAHO PUBLIC RECORDS ACT.**

These rules are public records and are available for inspection and copying at the Idaho State Department of Agriculture. (8-1-04)T

~~101~~**007.** -- 999.(RESERVED).



## **Senate Agriculture Affairs Committee**

### **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

#### **02.04.12 - RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING THE STANDARDS FOR THE FABRICATION OF SINGLE-SERVICE CONTAINERS AND CLOSURES FOR MILK AND MILK PRODUCTS**

#### **DOCKET NO. 02-0412-0401 (CHAPTER REPEAL)**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 37, Chapter 4, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule was to repeal this rule in its entirety. This is no longer a federal stand alone document. It has been incorporated into the 2003 Pasteurized Milk Ordinance.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004, Idaho Administrative Bulletin, Volume 04-10, page 42.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

DATED this 29th day of October, 2004.

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#### ***The Following Notice Was Published With The Temporary And Proposed Rule***

**EFFECTIVE DATE:** The effective date of the temporary rule is August 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) Title 37, Chapter 4, Idaho Code.

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE      Docket No. 02-0412-0401 (Chapter Repeal)**  
**Fabrication of Containers/Closures for Milk and Milk Products      PENDING RULE**

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**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**To repeal this rule in its entirety. This is no longer a federal stand alone document. It has been incorporated into the 2003 Pasteurized Milk Ordinance.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Protection of the public health, safety, or welfare.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Negotiated rule making was not conducted because this is a technical correction to repeal this rule in its entirety.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Marv Patten, Bureau Chief, Idaho State Department of Agriculture, (208) 332-8550.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790, Boise, Idaho 83701-0790  
(208) 332-8500, Fax (208) 334-4062

**IDAPA 02.04.12 IS BEING REPEALED IN ITS ENTIRETY.**

## **Senate Agriculture Affairs Committee**

### **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

#### **02.04.15 - RULES GOVERNING BEEF CATTLE ANIMAL FEEDING OPERATIONS**

##### **DOCKET NO. 02-0415-0401**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 22-101, and 22-4903, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule implements the provisions of HB 682 regarding nutrient management plans, updates referenced materials, and makes technical corrections.**

**The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 1, 2004, Idaho Administrative Bulletin, Vol. 04-9, pages 27 through 32.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact John Chatburn, Deputy Administrator, (208) 332-8540.

DATED this 15th day of November, 2004.

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#### ***The Following Notice Was Published With The Temporary And Proposed Rule***

**EFFECTIVE DATE:** The effective date of the temporary rule is August 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 22-101 and 22-4903, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Beef Cattle Animal Feeding Operations****Docket No. 02-0415-0401**  
**PENDING RULE**

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agency, not later than September 15, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This rule implements the provisions of HB 682 regarding nutrient management plans, updates referenced materials, and makes technical corrections.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(a) and (b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To protect the public health, safety or welfare, and to comply with deadlines and amendments to governing law or federal programs.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 04.11.01.811, negotiated rulemaking was not conducted because changes were mandated by changes in statute.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact John Chatburn, Deputy Administrator, (208) 332-8540.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 22, 2004.

DATED this 19th day of July, 2004.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701-0790  
(208) 332-8500  
Fax (208) 334-4062

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Beef Cattle Animal Feeding Operations

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Docket No. 02-0415-0401  
PENDING RULE

#### 001. TITLE AND SCOPE.

**01. Title.** The title of this chapter is “Rules ~~of the Department of Agriculture~~ Governing Beef Cattle Animal Feeding Operations”. ~~(3-16-01)~~(8-1-04)T

**02. Scope.** These rules shall govern the design, function, and management practices of waste systems on beef cattle animal feeding operations. The official citation of this chapter is IDAPA 02.04.15.000 et seq. For example this section’s citation is IDAPA 02.04.15.001. (3-16-01)

#### (BREAK IN CONTINUITY OF SECTIONS)

#### 004. INCORPORATION BY REFERENCE.

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.04.15 incorporates by reference: (3-16-01)

**01.** The ~~2000~~ Code of Federal Regulations (CFR) Title 40 Part 122 Section 122.23 and Part 122 Appendix B (b)(1), (b)(2), (b)(4), (b)(6), or (b)(9). ~~(3-16-01)~~(8-1-04)T

**02.** The 1997 United States Department of Agriculture Natural Resources Conservation Service Agricultural Waste Management Field Handbook, Appendix 10 D. (3-16-01)

**03.** The 2000 American Society of Agricultural Engineers Standard EP393.3. (3-16-01)

**04.** The 1999 Publication by the United States Department of Agriculture, Natural Resource Conservation Service, Conservation Practice Standard, Nutrient Management Code 590. (3-16-01)

#### (BREAK IN CONTINUITY OF SECTIONS)

#### 007. -- 009. (RESERVED).

#### ~~007~~10. DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter. (3-16-01)

**01. Administrator.** The administrator of the Idaho State Department of Agriculture, Division of Animal Industries or his designee. (8-1-04)T

~~04~~**2. Animal.** Bovidae, ovidae, suidae, equidae, captive cervidae, captive

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Beef Cattle Animal Feeding Operations

Docket No. 02-0415-0401  
PENDING RULE

---

antilopidae, camelidae, and ratitidae. (3-16-01)

**023. Animal Feeding Operation.** A lot or facility where slaughter ~~or~~ and feeder cattle or dairy heifers are confined and fed for a total of forty-five (45) days or more during any twelve (12) month period and crops, vegetation forage growth, or post harvest residues are not sustained in the normal growing season over any portion of the lot or facility. ~~(3-16-01)(8-1-04)T~~

**034. Beef Cattle Animal Feeding Operation.** An animal feeding operation, as defined in 40 CFR Sections 122.23 ~~and 40 CFR part 122, appendix B~~ (b)(1), (b)(2), (b)(4), (b)(6) or (b)(9), which confines slaughter ~~or~~ and feeder cattle or dairy heifers. ~~(3-16-01)(8-1-04)T~~

**045. Best Management Practices.** Practices as defined in Title 22, Chapter 49, Idaho Code or other practices, techniques, or measures that are determined to be a cost-effective and practicable means of preventing or reducing pollutants from point or non-point sources to a level compatible with state environmental goals. (3-16-01)

**056. Compost.** A biologically stable material derived from the biological decomposition of organic matter. (3-16-01)

**067. Director.** The Director of the Idaho State Department of Agriculture or his designee. ~~(3-16-01)(8-1-04)T~~

**078. Discharge.** Release of process wastewater or manure from a beef cattle animal feeding operation to waters of the state. (3-16-01)

**089. Land Application.** The spreading on, or incorporation of manure or process wastewater into the soil. (3-16-01)

**0910. Manure.** Animal excrement generated on a beef cattle animal feeding operation that may also contain bedding, spilled feed, water, or soil. (3-15-02)

**101. Modified.** Structural changes and alterations to the wastewater storage containment facility, which would require increased storage or containment capacity or such changes, which would alter the function of the wastewater storage or containment facility. (3-16-01)

**112. Non-Compliance.** A practice or condition that causes an unauthorized discharge or a practice or condition that if left uncorrected will cause an unauthorized discharge. (3-16-01)

**123. Nutrient Management Plan.** A plan prepared in conformance with the nutrient management standard, provisions required by 40 CFR 122.42(e)(1), or other equally protective standard for managing the amount, source, placement, form, and timing of the land application of nutrients or soil amendments. ~~(3-16-01)(8-1-04)T~~

**134. Nutrient Management Standard.** The 1999 publication by the United States Department of Agriculture Natural Resources Conservation Service, Conservation Practice Standard, Nutrient Management Code 590, or other equally protective standard approved by the Director. (3-16-01)

## Senate Agriculture Affairs Committee

---

### DEPARTMENT OF AGRICULTURE Rules Governing Beef Cattle Animal Feeding Operations

---

Docket No. 02-0415-0401  
PENDING RULE

**145. Operate.** Confining and feeding slaughter ~~or~~ and feeder cattle in the state of Idaho. (3-16-01)(8-1-04)T

**156. Operator.** The person who has power or authority to manage, or direct, or has financial control of a beef cattle animal feeding operation. (3-16-01)

**167. Person.** Any individual association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, state, or federal governmental department, agency or instrumentality, or any legal entity, which is recognized by law as the subject of rights and duties. (3-16-01)

**178. Process Wastewater.** ~~Any water generated on a beef cattle animal feeding operation that comes into contact with manure, compost, bedding, or feed, and runoff. Liquid containing beef cattle manure, process generated wastewater and any precipitation which comes into direct contact with livestock manure and facility products or by-products.~~ (3-15-02)(8-1-04)T

**189. Runoff.** Any precipitation that comes into contact with manure, compost, bedding, or feed on a beef cattle animal feeding operation. (3-15-02)

**1920. Slaughter ~~or~~ and Feeder Cattle.** All cattle except those cattle located on a dairy farm permitted by the Idaho State Department of Agriculture pursuant to IDAPA 02.04.14, "Rules of the Department of Agriculture Governing Dairy Waste." (3-16-01)(8-1-04)T

**201. Unauthorized Discharge.** A discharge of process wastewater or manure from a beef cattle animal feeding operation to surface waters of the state that is not authorized by a National Pollutant Discharge Elimination System permit issued by the United States Environmental Protection Agency, or the release of process wastewater or manure from a beef cattle animal feeding operation, to waters of the state, that does not meet the requirements of the act or water quality standards. (3-16-01)

**212. Wastewater Storage and Containment Facility.** That portion of a beef cattle animal feeding operation where manure or process wastewater is stored or collected. This may include corrals, feeding areas, waste collection systems, waste conveyance systems, waste storage ponds, waste treatment lagoons and evaporative ponds. (3-16-01)

**223. Waters of the State.** All surface and ground water located within the boundaries of the state or boundary streams, rivers and lakes except for private waters as defined in Title 42, Chapter 2, Idaho Code. (3-16-01)

~~008.—009. (RESERVED).~~

### 011. ABBREVIATIONS.

**01. NMP.** Nutrient Management Plan. (8-1-04)T

**02. NPDES.** National Pollutant Discharge Elimination System. (8-1-04)T

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Beef Cattle Animal Feeding Operations

Docket No. 02-0415-0401  
PENDING RULE

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**03.** NRCS. United States Department of Agriculture, Natural Resources Conservation Service. (8-1-04)T

#### **0102. ~~UNAUTHORIZED~~ PROHIBITED DISCHARGES.**

Unauthorized discharges of manure or process wastewater from beef cattle animal feeding operations or land application sites owned or controlled by a beef cattle animal feeding operation are prohibited. (~~3-16-01~~)(8-1-04)T

#### **0143. NOTIFICATION OF DISCHARGE.**

**01. Notification Within Twenty-Four Hours of Discharge.** Within twenty-four (24) hours of learning of a discharge, the operator of a beef cattle animal feeding operation shall verbally notify the Director of such a discharge. (3-16-01)

**02. Written Notification Within Five Days.** If the Idaho Department of Agriculture has not begun a discharge investigation within five (5) days of the verbal notification to the Director, the operator shall submit a written report to the Director which includes: (3-16-01)

- a. A description of the discharge, a description of the flow path to the receiving water body; (3-16-01)
- b. An estimation of the flow rate and volume discharged; (3-16-01)
- c. The period of discharge, including dates and times, and if not already corrected, the anticipated time the discharge is expected to continue; and (3-16-01)
- d. Steps taken to reduce, eliminate and prevent recurrence of the discharge. (3-16-01)

**0124. -- 019. (RESERVED).**

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **030. NUTRIENT MANAGEMENT.**

Each beef cattle animal feeding operation shall submit a nutrient management plan for land owned or controlled by the operator, which conforms to the nutrient management standard and addresses odors generated in excess of odors normally associated with raising beef cattle in Idaho, to the Director for approval. Following department review and approval, the plan, and all copies of the plan, shall be returned to the operation and maintained on site. (~~3-15-02~~)(8-1-04)T

**01. Existing Beef Cattle Animal Feeding Operations.** Beef cattle animal feeding operations that are operating on or before July 1, 2000 shall submit a ~~nutrient management plan~~ NMP to the director for approval no later than January 1, 2005. The Director shall respond to or approve such plan in writing within forty-five (45) days of submission. (~~3-15-02~~)(8-1-04)T

**02. New Beef Cattle Animal Feeding Operations.** Any new beef cattle animal



## Senate Agriculture Affairs Committee

---

### DEPARTMENT OF AGRICULTURE Rules Governing Beef Cattle Animal Feeding Operations

Docket No. 02-0415-0401  
PENDING RULE

---

feeding operation commencing operations after July 1, 2000 shall not operate prior to the Director's approval of a ~~nutrient management plan~~ NMP. The Director shall respond to or approve such plan within forty-five (45) days of submission. ~~(3-15-02)~~(8-1-04)T

**03. Implementation of a Nutrient Management Plan.** Failure to implement an approved ~~nutrient management plan~~ NMP is a violation of these rules. ~~(3-15-02)~~(8-1-04)T

**031. NUTRIENT MANAGEMENT PLAN RETENTION.**

All approved NMPs shall be maintained on site at the beef cattle animal feeding operation and available to the Administrator upon request. (8-1-04)T

**032. NUTRIENT MANAGEMENT RECORDS.**

The operators of beef cattle animal feeding operations shall keep complete and accurate records of: (8-1-04)T

**01. Land Application.** The dates and amounts of any manure or process wastewater applied on land owned or controlled by the operator. (8-1-04)T

**02. Manure Transferred to Another Person.** The name and address of any third party that receives manure or process wastewater from the operation, including the dates of the transfer and the amount of manure or process wastewater transferred. (8-1-04)T

**03. Records Retention.** All records shall be maintained for a period of five (5) years and presented to the Administrator upon request. (8-1-04)T

**0343. -- 039. (RESERVED).**

**040. DESIGNATION OF BEEF CATTLE ANIMAL FEEDING OPERATIONS.**

**01. Designation of Animal Feeding Operations.** The Director, on a case by case basis, may designate any animal feeding operation that confines slaughter ~~or~~ and feeder cattle as a beef cattle animal feeding operation if, after an inspection, the Director determines that the animal feeding operation is a significant contributor of pollution to waters of the state. The designation shall be provided to the operator of the animal feeding operation in writing setting forth the basis for the Director's decision. When designated, these operations shall be considered existing beef cattle animal feeding operations. The Director shall consider the following factors when making such designation: ~~(3-15-02)~~(8-1-04)T

**a.** Size of the animal feeding operation and the amount of manure, process wastewater, and runoff reaching waters of the state; (3-15-02)

**b.** Location of the animal feeding operation relative to waters of the state; (3-15-02)

**c.** Means of conveyance of manure, process wastewater, and runoff into waters of the state; and (3-15-02)

**d.** Slope, vegetation, precipitation, and other factors affecting the likelihood or frequency of discharge of manure, process wastewater, or runoff into waters of the state.

## Senate Agriculture Affairs Committee

**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Beef Cattle Animal Feeding Operations**

**Docket No. 02-0415-0401**  
**PENDING RULE**

(3-15-02)

**02. Redesignation of a Beef Cattle Animal Feeding Operation.** Upon request by the operator, the Director shall redesignate a facility previously designated under Section 040, if the facility is no longer a significant contributor of pollution to waters of the state. Such redesignation shall be provided to the operator in writing. (3-15-02)

**041. -- 049. (RESERVED).**

**050. AUTHORITY TO INSPECT.**

The Director ~~or his designee~~ is authorized to inspect any animal feeding operation that confines slaughter or feeder cattle in accordance with Title 22, Chapter 49, Idaho Code, to ensure compliance with these rules. The Director shall comply with the operation's biosecurity protocol so long as the protocol does not inhibit reasonable access to: ~~(3-16-01)(8-1-04)T~~

**01. Entry.** Enter and inspect at reasonable times ~~upon~~ the premises or land application site(s) of a beef cattle animal feeding operation ~~or where records are kept.~~ ~~(3-16-01)(8-1-04)T~~

**02. Access to Records.** ~~Have access to and~~ Review or copy any records that must be kept in accordance with these rules. ~~(3-16-01)(8-1-04)T~~

**03. Sample or Monitor.** Sample ~~substances~~ or monitor at reasonable times, substances or parameters directly related to compliance with these rules or an NPDES permit. ~~(3-16-01)(8-1-04)T~~

~~**04. Inspections.** Inspect any facility or land application site owned or controlled by the operator.~~ ~~(3-15-02)~~

## **Senate Agriculture Affairs Committee**

### **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

#### **02.04.19 - RULES GOVERNING DOMESTIC CERVIDAE**

##### **DOCKET NO. 02-0419-0401**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-3704, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**This rule requires visible identification of domestic cervidae, wild ungulate herd plans, and makes technical corrections.**

**The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 43 through 54.**

**In response to public comments and to make technical corrections, this pending rule amends the following Section: 026 Wild Cervidae.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact John Chatburn, Deputy Administrator, Idaho State Department of Agriculture at (208) 332-8540.

DATED this 15th day of November, 2004.

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#### ***The Following Notice Was Published With The Proposed Rule***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-3704, Idaho Code.

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE  
Rules Governing Domestic Cervidae**

**Docket No. 02-0419-0401  
PENDING RULE**

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**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

**October 12, 2004, 7:00 PM  
University Place Auditorium  
1776 Science Center Drive  
Idaho Falls, ID 83401**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This rule requires visible identification of domestic cervidae, wild ungulate herd plans, and makes technical corrections.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Informal negotiated rulemaking was conducted with the assistance of the Idaho Elk Breeder's Association.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact John Chatburn, Deputy Administrator, Idaho State Department of Agriculture at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi  
Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701-0790  
(208) 332-8500  
Fax (208) 334-4062

### **THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

#### **004. INCORPORATION BY REFERENCE.**

The following documents are incorporated by reference and copies of these documents may be

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Domestic Cervidae

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Docket No. 02-0419-0401  
PENDING RULE

obtained from the Idaho State Department of Agriculture central office and the State Law Library.  
(4-2-03)

**01. Bovine Tuberculosis Eradication, Uniform Methods and Rules, Effective January 22, 1999.** (4-2-03)

**02. Code of Federal Regulations, Title 9, Part 161, January 1, 2002~~4~~.**  
(4-2-03)( )

**03. Code of Federal Regulations, Title 9, Part 55, ~~February 5, 2002~~ January 1, 2004.**  
(4-2-03)( )

**04. Code of Federal Regulations, Title 9, Subchapter A, Part 1 and 2, ~~February 5, 2002~~ January 1, 2004.**  
(4-2-03)( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### 010. DEFINITIONS.

**01. Accredited Veterinarian.** A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with Title 9, Part 161, CFR, January 1, 2002~~4~~, to perform functions required by cooperative state-federal animal disease control and eradication programs.  
(4-2-03)( )

**02. Administrator.** Administrator of the Division of Animal Industries or his designee. (4-2-03)

**03. Approved Laboratory.** NVSL, an AAVLD accredited laboratory that is qualified to perform CWD diagnostic procedures, or a laboratory designated by the Administrator to perform CWD diagnostic procedures. (4-2-03)

**04. Approved Slaughter Establishment.** A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (4-2-03)

**05. Area Veterinarian in Charge.** The USDA/APHIS/VS veterinary official who is assigned to supervise and perform official animal health activities in Idaho. (4-2-03)

**06. Breed Associations and Registries.** Organizations maintaining permanent records of ancestry or pedigrees of animals, individual animal identification records and records of ownership. (4-2-03)

**07. Certificate.** An official document issued by a state or federal animal health official or an accredited veterinarian at the point of origin of a shipment of cervidae, which contains information documenting the age, sex, species, individual identification of the animals, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, the status of the animals relative to official diseases, test results and any

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Domestic Cervidae

Docket No. 02-0419-0401  
PENDING RULE

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other information required by the state animal health official for importation or translocation.

(4-2-03)

**08. Cervid Herd.** One (1) or more domestic cervidae or groups of domestic cervidae maintained on common ground or under common ownership or supervision that may be geographically separated but can have interchange or movement.

(4-2-03)

**09. Cervidae.** Deer, elk, moose, caribou, reindeer, and related species and hybrids including all members of the cervidae family and hybrids.

(4-2-03)

**10. Chronic Wasting Disease.** A transmissible spongiform encephalopathy of cervids, which is a nonfebrile, transmissible, insidious, and degenerative disease affecting the central nervous system of cervidae.

(4-2-03)

**11. Commingling.** Within the last five (5) years, the animals have had direct contact with each other, had less than thirty (30) feet of physical separation, or shared management equipment, pasture, or surface water sources, except for periods of less than forty-eight (48) hours at sales or auctions when a state or federal animal health official has determined such contact presents minimal risk of CWD transmission.

(4-2-03)

**12. Custom Exempt Slaughter Establishment.** A slaughter establishment that is subject to facility inspection by USDA, but which does not have ante-mortem and post-mortem inspection of animals by USDA inspectors.

(4-2-03)

**13. CWD-Adjacent Herd.** A herd of domestic cervidae occupying premises that border a premises occupied by a CWD positive herd, including herds separated by roads or streams.

~~(4-2-03)~~( )

**14. CWD-Exposed Animal.** A cervid animal that is not exhibiting any signs of CWD, but has had contact within the last five (5) years with cervids from a CWD-positive herd or the animal is a member of a CWD-exposed herd.

(4-2-03)

**15. CWD-Exposed Herd.** A herd of cervidae in which no animals are exhibiting signs of CWD, but:

(4-2-03)

**a.** An epidemiological investigation indicates that contact with CWD positive animals or contact with animals from a CWD positive herd has occurred in the previous five (5) years; or

(4-2-03)

**b.** A herd of cervidae occupying premises that were previously occupied by a CWD positive herd within the past five (5) years as determined by the designated epidemiologist; or

(4-2-03)

**c.** Two (2) herds that are maintained on a single premises even if they are managed separately, have no commingling, and have separate herd records.

~~(4-2-03)~~( )

**16. CWD-Positive Cervid.** A domestic cervid on which a diagnosis of CWD has been confirmed through positive test results on any official cervid CWD test by an approved

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Domestic Cervidae

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Docket No. 02-0419-0401  
PENDING RULE

laboratory. (4-2-03)

**17. CWD-Positive Herd.** A domestic cervidae herd in which any animal(s) has been diagnosed with CWD, based on positive laboratory results, from an approved laboratory. (4-2-03)

**18. CWD-Suspect Cervid.** A domestic cervid for which laboratory evidence or clinical signs suggests a diagnosis of CWD. (4-2-03)

**19. CWD-Suspect Herd.** A domestic cervidae herd in which any animal(s) has been determined to be a CWD-suspect. (4-2-03)

**20. Department.** The Idaho State Department of Agriculture. (4-2-03)

**21. Death Certificate.** A form, approved by the administrator, provided by the Division for the reporting of cervidae deaths and for reporting sample submission for CWD testing. ~~(4-2-03)~~(\_\_\_\_)

**22. Designated Epidemiologist.** A state or federal veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the Administrator to fulfill the epidemiology duties relative to the state domestic cervidae disease control program. (4-2-03)

**23. Director.** The Director of the Idaho State Department of Agriculture, or his designee. (4-2-03)

**24. Disposal.** Final disposition of dead cervidae. (4-2-03)

**25. Division.** Idaho State Department of Agriculture, Division of Animal Industries. (4-2-03)

**26. Domestic Cervidae.** Fallow deer (*Dama dama*), elk (*Cervus elaphus*) or reindeer (*Rangifer tarandus*) owned by a person. (4-2-03)

**27. Domestic Cervidae Approved Feedlot.** A domestic cervidae ranch, which is a confined dry-lot area, where selected domestic cervidae can be secured and isolated from all other domestic and wild cervidae and livestock for the purpose of feeding for slaughter only with no provisions for grazing. (4-2-03)

**28. Domestic Cervidae Ranch.** A premises where domestic cervidae are held or kept, including multiple premises under common ownership. ~~(4-2-03)~~(\_\_\_\_)

**29. Electronic Identification.** A form of unique, permanent individual animal identification such as radio frequency identification tag, radio frequency identification implant, or other forms approved by the Administrator. (\_\_\_\_)

**~~29~~30. Escape.** Any domestic cervidae located outside the perimeter fence of a domestic cervidae ranch and not under the immediate control of the owner or operator of the domestic cervidae ranch. (4-2-03)

## Senate Agriculture Affairs Committee

---

### DEPARTMENT OF AGRICULTURE Rules Governing Domestic Cervidae

---

Docket No. 02-0419-0401  
PENDING RULE

**301. Federal Animal Health Official.** An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (4-2-03)( )

**342. Herd of Origin.** A cervid herd, on any domestic cervidae ranch or other premise, where the animals were born, or where they were kept for at least one (1) year prior to date of shipment. (4-2-03)

**323. Herd Status.** Classification of a cervidae herd with regard to CWD. (4-2-03)

**334. Intrastate Movement Certificate.** A form approved by the Administrator, and available from the Division, to document the movement of domestic cervidae between premises within Idaho. (4-2-03)

**345. Individual Herd Plan.** A written herd management agreement and testing plan developed by the herd owner and approved by the Administrator to identify and eradicate CWD from a positive, source, suspect, exposed, or adjacent herd. (4-2-03)

**356. Limited Contact.** Incidental contact between animals of different herds in separate pens off of the herd's premises at fairs, shows, exhibitions and sales. (4-2-03)

**367. Official CWD Test.** A test approved by the Administrator and conducted at an approved laboratory to diagnose CWD. (4-2-03)

**378. Official Identification.** Identification, approved by the Administrator, that individually, uniquely, and permanently identifies each cervid. (4-2-03)

**389. Operator.** A person who has authority to manage or direct a domestic cervidae ranch. (4-2-03)

**3940. Owner.** The person that has legal title to, or has financial control of, any domestic cervidae or domestic cervidae ranch (4-2-03)

**401. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (4-2-03)

**442. Premises.** The ground, area, buildings, and equipment utilized to raise, propagate, control, or harvest domestic cervidae. (4-2-03)

**423. Quarantine.** An order issued on authority of the Administrator, by a state or federal animal health official or accredited veterinarian, prohibiting movement of cervids from any location without a written restricted movement permit. (4-2-03)

**434. Quarantine Facility.** A confined area where selected domestic cervidae can be secured and isolated from all other cervidae and livestock. (4-2-03)

**445. Reidentification.** The identification of a domestic cervid which had been



## Senate Agriculture Affairs Committee

---

### DEPARTMENT OF AGRICULTURE Rules Governing Domestic Cervidae

Docket No. 02-0419-0401  
PENDING RULE

---

officially identified, as provided by this chapter, but which has lost the official identification device, or the tattoo or official identification device has become illegible. (4-2-03)

**456. Restrain.** The immobilization of domestic cervidae in a chute, other device, or by other means for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (4-2-03)

**467. Restricted Movement Permit.** An official document that is issued by the Administrator, AVIC, or an accredited veterinarian for movement of animals from positive, suspect, or exposed herds. (4-2-03)

**478. Source Herd.** A herd from which at least one (1) cervid has originated within the previous five (5) years and that cervid has been diagnosed CWD positive. (4-2-03)

**489. State Animal Health Official.** The Administrator, or his designee. (4-2-03)

**4950. Status Date.** The date on which the Administrator approves in writing a herd status change with regard to CWD. (4-2-03)

**501. Trace Back Herd.** An exposed herd in which at least one (1) CWD positive animal resided within any of the previous sixty (60) months prior to diagnosis with CWD. (4-2-03)

**512. Trace Forward Herd.** A herd that has received exposed animals from a positive herd within sixty (60) months prior to the diagnosis of CWD in the positive herd or from the identified point of entry of CWD into the positive herd. (4-2-03)

**523. Traceback.** The process of identifying the movements and the herd of origin of CWD positive, or exposed animals, including herds that were sold for slaughter. (4-2-03)

**534. Wild Cervidae.** Any cervid animal not owned by a person. (4-2-03)

**55. Wild Ungulate.** Any four (4) legged, hoofed herbivore, including cervids and other ruminants, not owned by a person. ( )

**56. Wild Ungulate Cooperative Herd Plan.** A plan, developed cooperatively by the owner of the domestic cervidae ranch, the ISDA, and the Idaho Department of Fish and Game to determine the disposition of any wild ungulates that are found to be located on a domestic cervidae ranch. ( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### 020. LOCATION OF DOMESTIC CERVIDAE.

Any person who owns or has control of domestic cervidae in Idaho which are not located on a domestic cervidae ranch, which is in compliance with the applicable provisions of this chapter, or on an AZA accredited or USDA licensed facility in compliance with this chapter, is in violation of

## Senate Agriculture Affairs Committee

---

### DEPARTMENT OF AGRICULTURE Rules Governing Domestic Cervidae

Docket No. 02-0419-0401  
PENDING RULE

---

these rules. (4-2-03)

**01. Department Action.** In addition to any other administrative or civil action, the department may seize, require removal from the state, require removal to a domestic cervidae ranch that is in compliance with the provisions of this chapter, or require disposal of any domestic cervidae that are not located on a domestic cervidae ranch, an AZA accredited facility, or a USDA licensed facility which is in compliance with the provisions of this chapter. (4-2-03)

**02. Reindeer.** Reindeer shall not be owned, possessed, propagated or held in Idaho north of the Salmon River in order to protect the wild caribou herd in northern Idaho. (4-2-03)

**03. Exceptions.** The Administrator may grant exceptions from the provisions of Section 020 on a case specific basis. (4-2-03)

**04. Natural Disasters.** Damage caused to domestic cervidae ranch facilities by natural disasters shall not constitute a violation of this chapter, provided that the owner or operator begins any necessary repairs immediately upon discovering the damage, acts expeditiously, as determined by the Administrator, to complete any necessary repairs and reports the extent and cause of any damage to the Division within twenty-four (24) hours of the ~~occurrence~~ discovery of the damage. (4-2-03)( )

#### **021. OFFICIAL IDENTIFICATION.**

All domestic cervidae shall be individually, permanently, and uniquely identified, with two (2) types of official identification approved by the Administrator. (4-2-03)

**01. Reporting of Identification.** The unique individual identification number, type of identification, and the name, address, and telephone number of the owner of each animal identified shall be reported to the Administrator, in writing, by the owner or operator. (4-2-03)

**02. Identification Assigned.** Official identification, once assigned to an individual animal, shall not be changed or transferred to another animal. Animals that lose identification devices shall be reidentified in accordance with Section 023. (4-2-03)

**03. Progeny.** All progeny of domestic cervidae shall be officially identified by December thirty-first of the year of birth, upon sale or transfer of ownership, or upon leaving the domestic cervidae ranch, whichever is earlier. (4-2-03)

**04. Visible Identification.** At least one (1) of the official types of identification used shall be visible from one hundred and fifty (150) feet. ( )

#### **022. TYPES OF OFFICIAL IDENTIFICATION.**

All domestic cervidae shall be individually identified by two (2) of the following types of official identification. (4-2-03)

**01. Official USDA Eartag.** (4-2-03)

**02. Tattoo.** Legible skin tattoo using an alphanumeric tattoo sequence that has been recorded with the Division of Animal Industries. The tattoo shall be applied to either the ear or

## Senate Agriculture Affairs Committee

---

### DEPARTMENT OF AGRICULTURE Rules Governing Domestic Cervidae

Docket No. 02-0419-0401  
PENDING RULE

---

escutcheon.

(4-2-03)( )

**03. ~~Microchip.~~** ~~A microchip approved by the Administrator, in cooperation with the Idaho Brand Department, with an identifying number/frequency that has been recorded with the division. The owner of the domestic cervidae shall provide the microchip reader.~~ **Electronic Identification.** A form of electronic identification, approved by the Administrator. (4-2-03)( )

**04. Official NAEBA Eartag.** (4-2-03)

**05. Official ISDA Cervidae Program Eartag.** A tamper resistant, unique number sequenced, individual identification tag approved by the Administrator. (4-2-03)

**06. Official HASCO Brass Lamb Tag.** This brass lamb tag shall be engraved with farm name and individual animal identification number. (4-2-03)

**07. Freeze Brands.** Legible, freeze brands which uniquely identify the individual domestic cervid. ( )

**08. Other Identification.** Other forms of unique individual identification approved by the Administrator. ( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### **026. WILD CERVIDAE.**

Wild cervidae shall not be confined, kept or held on a domestic cervidae ranch. (4-2-03)

**01. Duty of Ranch Owner.** It shall be the duty of owners of all domestic cervidae ranches to take precautions, and to conduct periodic inspections, to ensure that wild cervidae are not located within the perimeter fence of any domestic cervidae ranch. (4-2-03)

**02. Notification Of Administrator.** All owners or operators of domestic cervidae ranches shall notify the Administrator within twenty-four (24) hours of gaining knowledge of the presence of wild cervidae inside the perimeter fence of the domestic cervidae ranch. (4-2-03)

**03. Failure to Notify the Administrator.** The failure of any owner or operator of a domestic cervidae ranch to notify the Administrator of the presence of wild cervidae within the perimeter fence of a domestic cervidae ranch is a violation of this chapter. (4-2-03)

**04. Idaho Department of Fish and Game.** Upon receiving notification that wild cervidae are on a domestic cervidae ranch the Administrator shall notify the Idaho Department of Fish and Game. (4-2-03)

**05. Wild Ungulate Cooperative Herd Plan.** The Idaho Department of Fish and Game shall cooperate with ISDA and the owners or operators of domestic cervidae ranches where any wild cervidae or wild ungulates are present within the external perimeter fence of the domestic cervidae ranch to develop and implement a site specific written herd plan to address the

## Senate Agriculture Affairs Committee

---

### DEPARTMENT OF AGRICULTURE Rules Governing Domestic Cervidae

Docket No. 02-0419-0401  
PENDING RULE

---

disposition of the wild cervidae or wild ungulates. ( )

#### (BREAK IN CONTINUITY OF SECTIONS)

### 100. DOMESTIC CERVIDAE RANCHES.

In order to prevent the introduction or dissemination of diseases, and to control or eradicate diseases, all domestic cervidae ranches shall comply with the disease control, facility, and record keeping requirements and all other provisions of this chapter. (4-2-03)

**01. Each Premises.** Each separate premises where domestic cervidae are kept or held shall comply with all of the provisions of this chapter. (4-2-03)( )

**02. Vehicle Access.** Domestic cervidae ranches shall have motorized vehicle access to the restraining system on each premises, during the portion of the year that cervidae are held or kept on the premises, adequate to facilitate disease prevention and control as determined by the Administrator. (4-2-03)( )

**03. Premises Registration.** Each premises where domestic cervidae are kept or held shall be registered with the Division and assigned a unique, individual number approved by the Administrator. ( )

#### (BREAK IN CONTINUITY OF SECTIONS)

### 202. INVENTORY VERIFICATION.

State or federal animal health officials shall verify all domestic cervidae ranch inventories of animals held and individual animal identification annually. (4-2-03)

**01. ~~Bangle Tag~~ Visible Identification.** Individual animal identification verification may be accomplished by visually noting the ~~bangle tag or other readily visible identification on each animal so long as this identification is correlated with two (2) forms of official identification on the inventory report and permanent domestic cervidae ranch records~~ unique official visible identification. The Administrator may, on a case by case basis, grant written permission for ranch specific unique bangle tags to be used for official identification. (4-2-03)( )

**02. Duty to Gather and Restrain.** It shall be the duty of the owner of each domestic cervidae ranch to gather and restrain any domestic cervidae, which state or federal animal health officials determine are not readily identifiable, for inventory verification purposes. The Administrator shall determine the suitability of the restraint system. (4-2-03)

### 203. CHANGE OF ADDRESS.

Owners of domestic cervidae ranches shall notify the Division in writing, within thirty (30) days, of any change in the address of the owners of domestic cervidae, the owner of the domestic cervidae ranch, or the domestic cervidae ranch. (4-2-03)( )

## Senate Agriculture Affairs Committee

---

### DEPARTMENT OF AGRICULTURE Rules Governing Domestic Cervidae

Docket No. 02-0419-0401  
PENDING RULE

---

#### 204. ESCAPE OF DOMESTIC CERVIDAE.

~~When any domestic cervidae escape from a domestic cervidae ranch, the owner or operator of the domestic cervidae ranch shall notify the Administrator within twenty-four (24) hours of the escape. It shall be the duty of each owner or operator of a domestic cervidae ranch to take all reasonable actions to prevent the escape of domestic cervidae from a domestic cervidae ranch.~~

(4-2-03)( )

**01. Notification of Escape.** When any domestic cervidae escape from a domestic cervidae ranch, the owner or operator of the domestic cervidae ranch shall notify the Administrator by phone, facsimile, or other means approved by the administrator within twenty-four (24) hours of the discovery of the escape. ( )

**042. Duty to Retrieve Escaped Cervidae.** It shall be the duty of each owner or operator of a domestic cervidae ranch to retrieve or otherwise bring under control all domestic cervidae that escape from a domestic cervidae ranch. (4-2-03)

**023. Fish and Game.** The Administrator shall notify the Idaho Department of Fish and Game of each escape. (4-2-03)

**034. Sheriff and State Brand Inspector.** When domestic cervidae escape from a domestic cervidae ranch and the owner or operator is unable to retrieve the animals within twenty-four (24) hours, the Administrator may notify the county sheriff or the state brand inspector of the escape pursuant to Title 25, Chapter 23, Idaho Code. (4-2-03)

**045. Capture.** In the event that the owner or operator of a domestic cervidae ranch is unable to retrieve escaped domestic cervidae in a timely manner, as determined by the Administrator, the Administrator may effectuate the capture of the escaped domestic cervidae to ensure the health of Idaho's livestock and wild cervidae populations. (4-2-03)

**056. Failure to Notify.** Failure of any owner or operator of a domestic cervidae ranch to notify the Administrator within twenty-four (24) hours of the discovery of an escape of domestic cervidae is a violation of this chapter. (4-2-03)( )

**07. Taking of Escaped Domestic Cervidae.** A licensed hunter may legally take domestic cervidae which have escaped from a domestic cervidae ranch only under the following conditions: ( )

**a.** The domestic cervidae has escaped and has not been in the control of the owner or operator of the domestic cervidae ranch for more than seven (7) days; and ( )

**b.** The hunter is licensed and in compliance with all the provisions of the Idaho Department of Fish and Game rules and code. ( )

#### 205. NOTICE OF DEATH OF DOMESTIC CERVIDAE.

The death of a domestic cervidae over one (1) year of age shall be reported by the owner or operator to the division ~~by telephone, electronic mail, or facsimile transmission of a CWD sample submission form/death certificate:~~

(4-2-03)( )

## Senate Agriculture Affairs Committee

---

### DEPARTMENT OF AGRICULTURE Rules Governing Domestic Cervidae

Docket No. 02-0419-0401  
PENDING RULE

---

**01. Reports.** The initial report of a cervidae death may be made by telephone or electronic mail, and then followed by the submission of CWD sample submission form/death certificate. ( )

**02. Submission of Death Certificates.** CWD sample submission forms/death certificates shall be submitted to the division by regular mail, facsimile, or by other means as approved by the Administrator. ( )

**043. Domestic Cervidae Ranches.** The owner or operator of a domestic cervidae ranch shall notify the division within five (5) business days of when the owner or operator knew or reasonably should have known of the death. (4-2-03)

**024. Approved and Custom Exempt Slaughter Establishments.** The owners of cervidae that are slaughtered shall report the death within five (5) business days of the date that the cervidae was slaughtered. (4-2-03)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 208. INTRASTATE MOVEMENT CERTIFICATE.

All owners of domestic cervidae ranches who move cervidae, from one premises to another, including movement from one (1) premises to another premises owned, operated, leased, or controlled by the owner, within the state of Idaho shall submit, to the Administrator, a complete and accurate intrastate movement certificate signed by the ~~consignor~~ owner, within five (5) business days of the movement. The Administrator shall provide blank intrastate movement certificates to the owners of domestic cervidae ranches upon request. (4-2-03)( )

### (BREAK IN CONTINUITY OF SECTIONS)

#### 250. INTRASTATE MOVEMENT OF DOMESTIC CERVIDAE.

All live domestic cervidae moving from one premises to another premises within the state of Idaho shall be officially identified, except calves during the year of birth accompanying their dam, and accompanied by: (4-2-03)( )

**01. TB Test.** An official negative test for tuberculosis of all cervidae over twelve (12) months of age, conducted within the last ninety (90) days, or written permission from the Administrator, except: (4-2-03)

**a.** Animals originating from an accredited, qualified or monitored herd, as described in "Bovine Tuberculosis Eradication, Uniform Methods and Rules", effective January 22, 1999, if they are accompanied by a certificate signed by an accredited veterinarian or the Administrator stating such domestic cervidae have originated directly from such herd; or (4-2-03)

**b.** Those domestic cervidae consigned directly to an approved slaughter establishment or domestic cervidae approved feedlot; or (4-2-03)

## Senate Agriculture Affairs Committee

---

### DEPARTMENT OF AGRICULTURE Rules Governing Domestic Cervidae

---

Docket No. 02-0419-0401  
PENDING RULE

c. Those domestic cervidae moving from one premises to another premises owned, operated, leased, or controlled by the same person. (4-2-03)(\_\_\_\_)

**02. Intrastate Movement Certificate.** All intrastate movements of live domestic cervidae, including movement from one premises to another premises owned, operated, leased, or controlled by the same person, shall be accompanied by a complete and accurate intrastate movement certificate, which has been signed by the owner or operator of the domestic cervidae ranch where the movement originates and includes a statement of the CWD and TB status of the cervidae. (4-2-03)(\_\_\_\_)

**03. Movement of Cervidae Between Accredited AZA or USDA Licensed Facilities.** Movement of cervidae between accredited AZA and USDA licensed facilities is exempt from the requirements of this chapter. All other movement from AZA accredited or USDA licensed facilities shall comply fully with all of the provisions of this chapter. (4-2-03)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **304. QUARANTINES.**

All domestic cervidae animals or herds that are determined to be exposed to, or infected with, any disease that constitutes an emergency, as provided in Title 25, Chapter 2, Idaho Code, shall be quarantined. (4-2-03)

**01. Infected Herds.** Infected herds or animals shall remain under quarantine until such time that the herd has been completely depopulated and the premises has been cleaned and disinfected as provided by the Administrator, or the provisions for release of a quarantine established in these rules have been met. (4-2-03)(\_\_\_\_)

**02. Exposed Herds.** The quarantine for exposed herds or animals may take the form of a hold-order which shall remain in effect until the exposed animals have been tested and the provisions for release of a quarantine as established in these rules have been met. (4-2-03)

**03. Validity of Quarantine.** The quarantine shall be valid whether or not acknowledged by signature of the owner. (4-2-03)

#### **305. DECLARATION OF ANIMAL HEALTH EMERGENCY.**

The Director is authorized to declare an animal health emergency. (4-2-03)

**01. Condemnation of Animals.** In the event that the Director determines that an emergency exists, animals that are found to be infected, or affected with, or exposed to an animal health emergency disease may be condemned and destroyed. (4-2-03)

**02. Indemnity.** Any indemnity shall be paid in accordance with Sections 25-212 and 25-213, Idaho Code. (4-2-03)

**03. Notification to Administrator.** Every owner of cervidae, every breeder or dealer

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Domestic Cervidae

Docket No. 02-0419-0401  
PENDING RULE

---

in cervidae, every veterinarian, and anyone bringing cervidae into this state who observes the appearance of, or signs of any disease or diseases, or who has knowledge of exposure of the cervidae to diseases that constitute an emergency shall give immediate notice, to the Administrator by telephone, ~~or~~ facsimile, ~~or~~ or other means as approved by the Administrator.

(4-2-03)( )

**04. Failure to Notify.** Any owner of cervidae who fails to report as herein provided shall forfeit all claims for indemnity for animals condemned and slaughtered or destroyed on account of the animal health emergency.

(4-2-03)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 501. COLLECTION OF SAMPLES FOR CWD TESTING.

Only accredited veterinarians, state and federal animal health officials, and other persons, approved by the Administrator, shall collect brain or other tissue samples for CWD testing. Samples shall be collected immediately upon discovery of the death of a domestic cervid.

(4-2-03)

**01. Brain Samples.** Only ~~P~~persons trained by state or federal animal health officials, and approved by the Administrator, may remove the brain stem containing the obex portion for submission as the sample for CWD testing.

(4-2-03)( )

**02. Submission of Head.** Only ~~P~~persons trained by state or federal animal health officials, and approved by the Administrator, may submit a head with the official identification attached to the head as the sample for CWD testing.

(4-2-03)( )

**03. Handling of Samples.** All CWD samples shall be handled in a manner that prevents degradation of the sample.

(4-2-03)

**04. Sample Submission Time.** Fresh samples for CWD testing shall be submitted, to an approved laboratory, within seventy-two (72) hours of the date of collection. Formalin preserved samples shall be submitted, to an approved laboratory, within five (5) business days of the date of collection.

(4-2-03)

**05. Non-Testable or Samples That do not Contain Appropriate Tissues.** The Administrator may conduct an investigation to determine if a domestic cervidae ranch is complying with the provisions of Section 500 if:

(4-2-03)

**a.** The owner or operator of a domestic cervidae ranch submits samples for CWD testing which are non-testable; or

(4-2-03)

**b.** The owner or operator of a domestic cervidae ranch submits samples for CWD testing that do not contain appropriate tissues for CWD testing.

(4-2-03)

**c.** The owner or operator of a domestic cervidae ranch submits samples for CWD testing which cannot be identified to the animal of origin.

( )



## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Domestic Cervidae

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Docket No. 02-0419-0401  
PENDING RULE

**06. Failure to Submit Samples for CWD Testing.** An owner or operator of a domestic cervidae ranch that fails to submit samples for CWD testing as required in this chapter is in violation of these rules, except the Administrator may approve, in writing, a variance from sample submission requirements on a case specific basis. (4-2-03)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **505. DURATION OF CWD QUARANTINE.**

Quarantines imposed because of CWD in accordance with this chapter shall remain in effect until one (1) of the following criteria are met: (4-2-03)

**01. CWD Positive Herds.** The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after five (5) years of compliance with an individual herd plan and all provisions of these rules, during which there was no evidence of CWD. (4-2-03)

**02. CWD Suspect Herds.** The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after a minimum of five (5) years of compliance with an individual herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd as determined by the Administrator. (4-2-03)

**03. Source Herds and Herds of Origin.** The quarantine may be released after a minimum of five (5) years of compliance with an individual herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd and that the herd is not the source of infection as determined by the Administrator. (4-2-03)

**04. Exposed Herds.** The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after a minimum of five (5) years of compliance with an individual herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd as determined by the Administrator. (4-2-03)

**05. Adjacent Herds.** ~~As~~ The quarantine may be released when directed by the Administrator based upon an epidemiological investigation and in consultation with the designated epidemiologist. ~~(4-2-03)~~(\_\_\_\_)

**06. Fencing Requirements.** Any owner of a domestic cervidae ranch who chooses to remain under quarantine for five (5) years shall construct a second perimeter fence that meets the requirements for perimeter fence, as provided in Section 102, such that no domestic cervidae on the domestic cervidae ranch can get within ten (10) feet of the original exterior perimeter fence or as approved by the Administrator. (4-2-03)

**07. Complete Depopulation.** The quarantine may be released after: (4-2-03)

## Senate Agriculture Affairs Committee

---

### DEPARTMENT OF AGRICULTURE Rules Governing Domestic Cervidae

---

Docket No. 02-0419-0401  
PENDING RULE

a. Complete depopulation of all cervidae on the premises as directed by the Administrator; and (4-2-03)

b. The premises have been free of all livestock as specified in an individual herd plan approved by the Administrator; and (4-2-03)

c. The soil and facilities have been cleaned, treated, decontaminated, or disinfected as directed by the Administrator. (4-2-03)

**08. Disposal of Positive or Exposed Cervidae.** All CWD positive or exposed domestic cervidae shall be disposed of as directed by the Administrator. (4-2-03)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **600. DOMESTIC CERVIDAE APPROVED FEEDLOTS.**

Domestic cervidae may be fed for slaughter in an Idaho Domestic Cervidae Approved Feedlot for a time period of up to six (6) months, except for domestic cervidae calves born in the feedlot. (4-2-03)

**01. Grazing.** No Domestic Cervidae Approved Feedlot shall permit pasturing or grazing. (4-2-03)

**02. Maintain All Original Identification.** All original animal identification devices shall be maintained and records of new identification devices shall show original identification and disposition. These records shall be maintained for three (3) years following disposition of the domestic cervidae for animal health tracing purposes. (4-2-03)

**03. All Cervidae Shall be Separated by Sex.** All cervidae on the facility shall be penned separately by sex so that no breeding can occur. (4-2-03)

**04. Pregnant Female Cervidae Allowed to Calve.** Female cervidae, which are pregnant at the time of entry into the feedlot, may be allowed to calve in the feedlot. All calves may remain in the feedlot up to sixteen (16) months of age prior to moving to an approved slaughter establishment. (4-2-03)

**05. All Cervidae Leaving the Facility.** All cervidae, including calves born to female cervidae in the feedlot, leaving the facility shall move only to slaughter at an approved slaughter establishment. (4-2-03)(\_\_\_\_)

**06. Escapes.** All domestic cervidae that escape from a Domestic Cervidae Approved Feedlot shall immediately be destroyed. The owner or operator of the Domestic Cervidae Approved Feedlot shall notify the Administrator by phone, facsimile, or other means as approved by the Administrator within twenty-four (24) hours of the first knowledge of the escape. (4-2-03)(\_\_\_\_)

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Domestic Cervidae****Docket No. 02-0419-0401**  
**PENDING RULE**

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**07. Domestic Cervidae Deaths.** All deaths of domestic cervidae shall be reported, by the owner or operator of the domestic cervidae feedlot, to the Administrator within twenty-four (24) hours of the death. (4-2-03)

**08. CWD Testing.** The owner or operator of the domestic cervidae feedlot shall collect and submit tissue samples for CWD testing in accordance with Section 501 for all cervidae that enter the feedlot. (4-2-03)

**09. Notification of Disease.** Every owner or operator of a Domestic Cervidae Approved Feedlot that observes the appearance of, or signs of any disease or diseases, or who has knowledge of exposure of the cervidae to diseases that constitute an emergency shall give immediate notice, by telephone or facsimile to the Administrator. (4-2-03)

## **Senate Agriculture Affairs Committee**

### **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

#### **02.04.25 - RULES GOVERNING PRIVATE FEEDING OF BIG GAME ANIMALS**

##### **DOCKET NO. 02-0425-0401 (NEW CHAPTER)**

##### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-207A, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**This rule designates an area of eastern Idaho where the private feeding of big game animals is prohibited for disease control purposes, and delineates how the interaction of livestock and big game animals on feedlines will be regulated.**

**The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Vol. 04-10, pages 55 through 59.**

**In response to public comments and to make technical corrections, this pending rule amends the following Sections: 100. Eastern Idaho Big Game Private Feeding Prohibition Zone, 150. Management Activities, and adds a new Section 151. Entering Premises.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact John Chatburn, Deputy Administrator, Idaho State Department of Agriculture at (208) 332-8540.

DATED this 15th day of November, 2004.

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### ***The Following Notice Was Published With The Proposed Rule***

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-207A, Idaho Code.

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Private Feeding of Big Game Animals**

**Docket No. 02-0425-0401 (New Chapter)**  
**PENDING RULE**

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**PUBLIC HEARING SCHEDULE:** A public hearing concerning this rulemaking will be held as follows:

**October 12, 2004 4:00 p.m.**  
**University Place Auditorium**  
**1776 Science Center Drive**  
**Idaho Falls, ID 83401**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This rule designates an area of eastern Idaho where the private feeding of big game animals is prohibited for disease control purposes, and how the interaction of livestock and big game animals on feedlines will be regulated.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted because this is a re-write of a rule that was rejected by the 2004 Legislature and the proposed rule has been changed to reflect the discussions before the germane committees.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact John Chatburn, Deputy Administrator, Idaho State Department of Agriculture at (208) 332-8540.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 18th day of August, 2004.

Patrick A. Takasugi  
Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701-0790  
(208) 332-8500  
Fax (208) 334-4062

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Private Feeding of Big Game Animals**

**Docket No. 02-0425-0401 (New Chapter)**  
**PENDING RULE**

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### IDAPA 02, TITLE 04, CHAPTER 25

#### 02.04.25 - RULES GOVERNING PRIVATE FEEDING OF BIG GAME ANIMALS

##### **000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Title 25, Chapter 2, Idaho Code. ( )

##### **001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.04.25, “Rules Governing Private Feeding of Big Game Animals”. ( )

**02. Scope.** These rules govern the private feeding of big game animals in areas of the state of Idaho that have been designated for regulation. The official citation of this chapter is IDAPA 02.04.25.000 et seq. For example, this Section’s citation is IDAPA 02.04.25.001. ( )

##### **002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. ( )

##### **003. ADMINISTRATIVE APPEAL.**

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. ( )

##### **004. INCORPORATION BY REFERENCE.**

This chapter does not incorporate any documents by reference. ( )

##### **005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712. ( )

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. ( )

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P.O. Box 790, Boise, Idaho 83701-0790. ( )

**04. Telephone Number.** The telephone number for the Division of Animal Industries at the central office is (208) 332-8540. ( )

**05. Fax Number.** The fax number for the Division of Animal Industries at the central office is (208) 334-4062. ( )

##### **006. IDAHO PUBLIC RECORDS ACT.**

These rules are public records available for inspection and copying at the Central Office of the

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Private Feeding of Big Game Animals

Docket No. 02-0425-0401 (New Chapter)  
PENDING RULE

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Idaho State Department of Agriculture. ( )

**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this chapter. ( )

**01. Administrator.** The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. ( )

**02. Big Game Animals.** All wild cervidae. ( )

**03. Brucellosis.** An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. ( )

**04. Cattle.** All bovidae, including domestic bison. ( )

**05. Department.** The Idaho State Department of Agriculture. ( )

**06. Director.** The director of the Idaho State Department of Agriculture or his designee. ( )

**07. Division of Animal Industries.** Idaho State Department of Agriculture, Division of Animal Industries. ( )

**08. Domestic Bison.** All animals in the genus *Bison* that are owned by a person. ( )

**09. Domestic Cervidae.** Elk, fallow deer and reindeer that are owned by a person. ( )

**10. Emergency Feeding.** Feeding of big game animals authorized by IDFG pursuant to IDAPA 13.01.18 "Rules Governing Emergency Feeding of Antelope, Elk, and Deer of the Idaho Fish and Game Commission," and IDFG written policies. ( )

**11. Federal Animal Health Official.** An employee of the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services who is authorized to perform animal health activities. ( )

**12. Livestock.** Cattle, domestic cervidae, domestic bison, sheep, goats, camelids, and horses. ( )

**13. Operator.** The person who has authority to manage or direct a premises or other area where livestock are fed, feed is stored, or the private feeding of big game animals may occur. ( )

**14. Owner.** The person who owns or has financial control of livestock, premises or other areas where livestock are fed, where feed is stored, or where the private feeding of big game

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Private Feeding of Big Game Animals****Docket No. 02-0425-0401 (New Chapter)**  
**PENDING RULE**

---

animals may occur. ( )

**15. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. ( )

**16. Premises.** The ground, area, buildings, corrals, and equipment utilized to keep, hold, or maintain animals. ( )

**17. State Animal Health Official.** The Administrator, or his designee, responsible for disease control and eradication activities. ( )

**18. Supplemental Feed.** Harvested hay, grain, baled straw, or pellet rations. ( )

**19. Wild Cervidae.** All cervidae that are not owned by a person. ( )

**011. ABBREVIATIONS.**

**01. IDFG.** Idaho Department of Fish and Game. ( )

**02. ISDA.** Idaho State Department of Agriculture. ( )

**012. -- 019. (RESERVED).**

**020. APPLICABILITY.**

In order to prevent the spread of brucellosis and other diseases between big game animals and from big game animals to livestock, these rules apply to all persons who purposely or knowingly provide supplemental feed to big game animals within the area designated in Section 100 of these rules, except supplemental feeding activities conducted by, or emergency feeding activities authorized by IDFG. ( )

**021. -- 099. (RESERVED).**

**100. EASTERN IDAHO BIG GAME PRIVATE FEEDING PROHIBITION ZONE.**

In order to prevent the spread of brucellosis and other diseases between big game animals and from big game animals to livestock, the following portion of Idaho is designated as the eastern Idaho big game private feeding prohibition zone: ( )

**01. Clark County.** All of Clark County east of Interstate Highway 15. ( )

**02. Fremont County.** All of Fremont County. ( )

**03. Teton County.** All of Teton County. ( )

**04. Madison County.** All of Madison County. ( )

**05. Jefferson County.** All of Jefferson County east of Interstate Highway 15. ( )



## Senate Agriculture Affairs Committee

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### **DEPARTMENT OF AGRICULTURE Rules Governing Private Feeding of Big Game Animals**

**Docket No. 02-0425-0401 (New Chapter)  
PENDING RULE**

---

**06. Bonneville County.** All of Bonneville County east of Interstate Highway 15. ( )

**07. Caribou County.** All of Caribou County. ( )

**08. Bear Lake County.** All of Bear Lake County. ( )

#### **101. PRIVATE FEEDING OF BIG GAME ANIMALS PROHIBITED.**

No person shall purposely or knowingly provide supplemental feed to big game animals within the eastern Idaho big game private feeding prohibition zone, except supplemental feeding activities conducted by, or emergency feeding activities authorized by IDFG. ( )

#### **102. INCIDENTAL GRAZING.**

Incidental grazing by big game animals on private rangeland forage, standing agricultural crops, or agricultural crop residue left on the ground following typical harvest practices shall not be considered providing supplemental feed. ( )

#### **103. -- 119. (RESERVED).**

#### **120. INCIDENTAL FEEDING.**

Incidental feeding of big game animals during the normal practice of providing feed to livestock in the winter is not a violation of this chapter, provided the owner and operator of the premises where the livestock are being fed cooperate with the ISDA, as determined by the Administrator, to facilitate conducting big game management activities that will eliminate the feeding of big game animals. ( )

#### **121. SPATIAL SEPARATION.**

When requested by the Administrator, IDFG shall cooperate with ISDA in maintaining spatial separation of livestock and big game animals. ( )

#### **122. -- 149. (RESERVED).**

#### **150. MANAGEMENT ACTIVITIES.**

When requested by the Administrator, IDFG shall assist in conducting big game management activities, which include but are not limited to: ( )

**01. Trapping.** Trapping big game animals. ( )

**02. Testing.** Testing big game animals for diseases. ( )

**03. Moving Animals.** Transferring big game animals to areas where there is suitable winter habitat. ( )

**04. Hazing.** Hazing or dispersing big game animals. ( )

**05. Supplemental Feed.** Making supplemental feed unavailable or unpalatable to big game animals. ( )

## Senate Agriculture Affairs Committee

---

**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Private Feeding of Big Game Animals****Docket No. 02-0425-0401 (New Chapter)**  
**PENDING RULE**

---

**06. Fencing.** Providing fencing materials to facilitate the separation of cattle and big game animals. ( )

**151. ENTERING PREMISES.**

*State and federal animal health officials are authorized to enter premises during normal business hours, within the eastern Idaho big game private feeding prohibition zone where big game animals are being provided with supplemental feed or there is feedline contact between livestock and big game animals, to conduct big game management activities.* ( )

**01. Notification.** ISDA shall make reasonable efforts to notify the owner or operator of any premises prior to entry for the purpose of conducting big game management activities. ( )

**02. Cooperation.** The owner or operator of a premises shall cooperate with ISDA in developing plans for conducting big game management activities. ( )

**152. -- 989. (RESERVED).**

**990. PENALTIES FOR VIOLATIONS.**

Any person who violates the provisions of this chapter is subject to the penalties provided in Section 25-219, Idaho Code. ( )

**991. -- 994. (RESERVED).**

**995. MINOR VIOLATIONS.**

Nothing in this chapter shall be construed as requiring ISDA to report minor violations when ISDA believes that the public interest will be best served by suitable warnings or other administrative action. ( )

**996. -- 999. (RESERVED).**

## **Senate Agriculture Affairs Committee**

### **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

#### **02.04.26 - RULES GOVERNING LIVESTOCK MARKETING**

##### **DOCKET NO. 02-0426-0401 (NEW CHAPTER)**

##### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 25-207, 25-305, 25-601, 25-1723, and 25-3520, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**This rule details the requirements for Public Livestock Markets. It is a modification of a rule that was rejected by the 2004 Legislature. This rule has been modified to reflect the recommendations of the germane legislative committees.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 1, 2004, Idaho Administrative Bulletin, Vol. 04-9, pages 33 through 39.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact John Chatburn, Deputy Administrator, (208) 332-8540.

DATED this 14th day of October, 2004.

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### ***The Following Notice Was Published With The Temporary And Proposed Rule***

**EFFECTIVE DATE:** The effective date of the temporary rule is August 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 25-207, 25-305, 25-601, 25-1723, and 25-3520 Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE  
Rules Governing Livestock Marketing**

**Docket No. 02-0426-0401  
PENDING RULE**

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scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 15, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of it supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**This rule details the requirements for Public Livestock Markets. It is modification of a rule that was rejected by the 2004 Legislature. The rule has been modified to reflect the recommendations of the germane legislative committees.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To protect the public health, safety and welfare.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because this rule is a rewrite of a rule that was rejected by the 2004 Legislature. This rule incorporates the recommendations of the germane legislative committees.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact John Chatburn, Deputy Administrator, (208) 332-8540.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 22, 2004.

DATED this 19th day of July, 2004.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701-0790  
(208) 332-8500  
Fax (208) 334-4062

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

# Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Livestock Marketing**

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**Docket No. 02-0426-0401**  
**PENDING RULE**

**IDAPA 02**  
**TITLE 04**  
**CHAPTER 26**

**02.04.26 - RULES GOVERNING LIVESTOCK MARKETING**

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Title 25, Chapters 2, 3, 6, 17, and 35, Idaho Code. (8-1-04)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.04.26, “Rules Governing Livestock Marketing”. (8-1-04)T

**02. Scope.** These rules shall govern the facilities, record keeping, identification, quarantine facilities, and movement of livestock through public livestock markets. The official citation of this chapter is IDAPA 02.04.26.000 et seq. For example, this section’s citation is IDAPA 02.04.26.001. (8-1-04)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (8-1-04)T

**003. ADMINISTRATIVE APPEAL.**

Persons may be entitled to appeal agency actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (8-1-04)T

**004. INCORPORATION BY REFERENCE.**

**01. Incorporated Documents.** The following documents are incorporated by reference: Code of Federal Regulations, Title 9, Parts 71, 75, 77, 78, 85, and 161, CFR, January 1, 2003. (8-1-04)T

**02. Availability of Documents.** Copies of these documents may be obtained from the Idaho State Department of Agriculture central office. (8-1-04)T

**005. ADDRESS, OFFICE HOURS, TELEPHONE, AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (8-1-04)T

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m. Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (8-1-04)T

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P. O. Box 790, Boise, Idaho 83701. (8-1-04)T

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Livestock Marketing

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Docket No. 02-0426-0401  
PENDING RULE

**04. Telephone Number.** The telephone number for the Division of Animal Industries at the central office is (208) 332-8540. (8-1-04)T

**05. Fax Number.** The fax number for the Division of Animal Industries at the central office is (208) 334-4062. (8-1-04)T

**006. IDAHO PUBLIC RECORDS ACT.**

These rules are public records available for inspection and copying at the central office of the Idaho State Department of Agriculture. (8-1-04)T

**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**

The following definitions shall apply in the interpretation and enforcement of this chapter. (8-1-04)T

**01. Accredited Veterinarian.** A veterinarian approved by the Administrator and the USDA/APHIS/ VS, in accordance with the provisions of Title 9, Part 161, Code of Federal Regulations, to perform functions of State-Federal animal disease control programs. (8-1-04)T

**02. Administrator.** The administrator of the Division of Animal Industries, Idaho State Department of Agriculture or his designee. (8-1-04)T

**05. Approved Slaughter Establishment.** A USDA inspected slaughter establishment where ante-mortem and post-mortem inspections are conducted by USDA inspectors. (8-1-04)T

**06. Brucellosis.** An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. (8-1-04)T

**07. Cattle.** All domestic bovidae, including domestic bison. (8-1-04)T

**08. Department.** The Idaho State Department of Agriculture. (8-1-04)T

**09. Director.** The director of the Idaho State Department of Agriculture, or his designee. (8-1-04)T

**10. Division.** Idaho State Department of Agriculture, Division of Animal Industries. (8-1-04)T

**11. Domestic Bison.** All animals in the genus *Bison*, which are owned by a person. (8-1-04)T

**12. Domestic Cervidae.** Elk, fallow deer, and reindeer owned by a person. (8-1-04)T

**13. Epithelioma of the Eye.** Carcinoma of the eye of cattle commonly known as cancer eye. (8-1-04)T

## Senate Agriculture Affairs Committee

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### **DEPARTMENT OF AGRICULTURE Rules Governing Livestock Marketing**

**Docket No. 02-0426-0401  
PENDING RULE**

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- 14. Federal Animal Health Official.** An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (8-1-04)T
- 15. Herd.** Any group of livestock maintained on common ground, or two (2) or more groups of livestock under common ownership or supervision that are geographically separated from other groups but can have an interchange or movement without regard to health status. (8-1-04)T
- 16. Interstate Movement.** Movements of livestock from Idaho into any other state, territory or the District of Columbia or from any other state, territory or the District of Columbia into Idaho. (8-1-04)T
- 17. Livestock.** Cattle, domestic bison, swine, horses, mules, asses, domestic cervidae, sheep, goats, camelids, and ratites. (8-1-04)T
- 19. Lump Jaw.** A condition known as actinomycosis or actinobacillosis in cattle. (8-1-04)T
- 20. Official Ear Tag.** An APHIS approved identification ear tag conforming to an alphanumeric national uniform ear tagging system, which provides unique identification for each animal. (8-1-04)T
- 21. Official Individual Identification.** Official USDA approved ear tag, USDA back tag, registration tattoo, or identification approved by the Administrator. (8-1-04)T
- 22. Official Vaccination Ear Tag.** An APHIS approved identification ear tag conforming to the alphanumeric national uniform ear tagging system, which provides unique identification for each animal. (8-1-04)T
- 23. Operator.** The person who has authority to manage or direct a public livestock market. (8-1-04)T
- 24. Owner.** The person who owns or has financial control of a public livestock market. (8-1-04)T
- 25. Person.** Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (8-1-04)T
- 26. Public Livestock Market.** Any place, establishment, or facility owned or operated by a person in which livestock is received, held, sold or kept for sale or shipment, which is conducted or operated for compensation or profit as a public market for livestock. (8-1-04)T
- 27. Restraint.** The confinement of livestock in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (8-1-04)T
- 28. State Animal Health Official.** The Administrator, or his designee, responsible for

## Senate Agriculture Affairs Committee

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### **DEPARTMENT OF AGRICULTURE Rules Governing Livestock Marketing**

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**Docket No. 02-0426-0401  
PENDING RULE**

disease control and eradication activities. (8-1-04)T

**29. Tuberculosis.** An infectious disease of humans and animals caused by *Mycobacterium bovis*. (8-1-04)T

**30. USDA Back Tag.** A back tag issued by APHIS that conforms to the eight (8) character alphanumeric National Back Tagging System and that provides unique identification for each animal. (8-1-04)T

#### **011. ABBREVIATIONS.**

**01. APHIS.** Animal Plant Health and Inspection Service. (8-1-04)T

**02. CFR.** Code of Federal Regulations. (8-1-04)T

**03. USDA.** United States Department of Agriculture. (8-1-04)T

**04. VS.** Veterinary Services. (8-1-04)T

#### **012. -- 019. (RESERVED).**

#### **020. APPLICABILITY.**

These rules apply to chartered public livestock markets operating in Idaho. (8-1-04)T

#### **021. -- 029. (RESERVED).**

#### **030. INSPECTIONS.**

To prevent the introduction and dissemination, or to control and eradicate diseases, state and federal animal health officials are authorized to inspect livestock records, premises, facilities, and livestock to ensure compliance with the provisions of this chapter and other state or federal laws or rules applicable to public livestock markets. (8-1-04)T

**01. Entering Premises.** In order to conduct activities authorized by this chapter, state or federal animal health officials are authorized to enter public livestock market premises during normal business hours. (8-1-04)T

**02. Inspecting Records.** To ensure compliance with the provisions of this chapter, state or federal animal health officials are authorized, during normal business hours, to have access to, inspect, review, and copy any livestock records deemed necessary. (8-1-04)T

#### **031. -- 039. (RESERVED).**

#### **040. LIVESTOCK TREATMENT.**

Each public livestock market shall humanely treat all livestock. All non-ambulatory livestock shall be: (8-1-04)T

**01. Returned.** Returned to the owner; or (8-1-04)T



## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Livestock Marketing****Docket No. 02-0426-0401**  
**PENDING RULE**

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**02. Feed and Water.** Provided adequate feed and clean water; or (8-1-04)T

**03. Euthanized.** Humanely euthanized, and disposed of in accordance with IDAPA 02.04.17 “Rules Governing Dead Animal Movement and Disposal”. (8-1-04)T

**041. -- 049. (RESERVED).**

**050. DEAD ANIMAL DISPOSAL.**

The movement and disposal of all dead animals shall be pursuant to the provisions of IDAPA 02.04.17 “Rules Governing Dead Animal Movement and Disposal”. (8-1-04)T

**051. -- 059. (RESERVED).**

**060. ENVIRONMENTAL REQUIREMENTS.**

All public livestock markets shall meet the provisions of IDAPA 02.04.15 “Rules Governing Beef Cattle Animal Feeding Operations”. (8-1-04)T

**061. -- 099. (RESERVED).**

**100. PUBLIC LIVESTOCK MARKET CHARTER.**

No person shall conduct or operate a public livestock market without first securing a charter from the Department. Charters shall expire on April 30 of each year. It shall be the responsibility of the public livestock market operator to apply each year for charter renewal. (8-1-04)T

**101. PUBLIC LIVESTOCK MARKET MINIMUM SALE REQUIREMENT.**

Each chartered public livestock market shall conduct a minimum of one (1) sale during each calendar year. (8-1-04)T

**102. -- 109. (RESERVED).**

**110. MARKET RELEASE.**

Prior to any livestock being released from a public livestock market, the following conditions shall be fulfilled: (8-1-04)T

**01. Veterinary Inspection.** A visual inspection, of each animal, shall be made by an accredited veterinarian authorized to provide veterinary services to the market. (8-1-04)T

**02. Affected Animals.** Any animals determined to be affected by any infectious or contagious disease shall be immediately isolated in quarantine pens and are subject to the market’s bio-security protocol. (8-1-04)T

**03. Removal of Animals.** No animals shall be removed from the livestock market until all animals determined to be affected with a contagious or infectious disease have been examined by an accredited veterinarian authorized to provide veterinary services to the market. (8-1-04)T

**04. Saleyard Release Form.** An accurate and legible “Saleyard Release” form, certificate of veterinary inspection, or other market release mechanism, approved by the

## Senate Agriculture Affairs Committee

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### **DEPARTMENT OF AGRICULTURE Rules Governing Livestock Marketing**

**Docket No. 02-0426-0401  
PENDING RULE**

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Administrator, shall be completed certifying that the animals meet the health requirements for movement to the point of destination. (8-1-04)T

**111. -- 114. (RESERVED).**

**115. BIO-SECURITY PLAN.**

All public livestock markets shall submit a bio-security plan to the Administrator for approval. All approved bio-security plans shall be implemented by the public livestock market. Each bio-security plan shall include, but not be limited to, the following elements: (8-1-04)T

**01. Identification.** Procedures for identifying animals that are affected by any contagious or infectious disease. (8-1-04)T

**02. Diagnosis.** Procedures for examination and diagnosis, by an accredited veterinarian, of any animals affected by any contagious or infectious disease. (8-1-04)T

**03. Disposition.** Procedures for the disposition of any livestock diagnosed as affected by any contagious or infectious disease. (8-1-04)T

**04. Records.** Complete and accurate records shall be kept on site at the livestock market, showing that the market's bio-security plan is being implemented. (8-1-04)T

**116. -- 119. (RESERVED).**

**120. IDENTIFICATION.**

All livestock entering a public livestock market shall be individually identified to the herd of origin. (8-1-04)T

**121. APPROVED FORMS OF IDENTIFICATION.**

The following are approved methods of identification. (8-1-04)T

**01. Back Tag.** USDA approved back tag; or (8-1-04)T

**02. Ear Tag.** Official USDA ear tag; or (8-1-04)T

**03. Registration Tattoo;** or (8-1-04)T

**04. Brand Inspection.** Statement of ownership such as a brand inspection certificate. (8-1-04)T

**05. Administrator Approval.** The Administrator may approve other forms of identification on a case by case basis. (8-1-04)T

**06. Removal of Identification.** No animal identification shall be intentionally removed, tampered with, or otherwise altered, except as approved by the Administrator. (8-1-04)T

**122. -- 129. (RESERVED).**

## Senate Agriculture Affairs Committee

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### **DEPARTMENT OF AGRICULTURE Rules Governing Livestock Marketing**

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**Docket No. 02-0426-0401  
PENDING RULE**

#### **130. QUARANTINE PENS.**

A quarantine pen or pens shall be provided at all public livestock markets and such pens shall only be used to hold animals that have reacted to the brucellosis or tuberculosis test or animals affected with, or suspected of being affected with a contagious or infectious disease, epithelioma of the eye, or lump jaw. The pens shall comply with the following requirements: (8-1-04)T

**01. Hard Surface.** Hard surfaced with concrete or similar impervious material in good repair; and (8-1-04)T

**02. Feed and Water.** Adequate feed and clean water facilities which are completely separate from all other livestock; and (8-1-04)T

**03. Signage.** Identified with the word "QUARANTINE" in red letters, not less than four (4) inches high, on a white background on the pen gate; and (8-1-04)T

**04. Cleaning and Disinfection.** Cleaned and disinfected no later than the day following date of sale; and (8-1-04)T

**05. Fence Construction.** The fence shall be solid, constructed by boards or other material approved by the Administrator, and shall be a minimum of five and one-half (5 ½) feet high; and (8-1-04)T

**06. Drainage.** Drainage shall not be onto adjoining pens, restraint facilities or alleys. (8-1-04)T

**131. -- 149. (RESERVED).**

#### **150. RESTRAINT FACILITIES.**

Each public livestock market shall have a restraint system, approved by the Administrator, for humanely, efficiently, and effectively restraining livestock for the purpose of inspecting, identifying, treating, or testing of animals by state or federal animal health officials. (8-1-04)T

**151. -- 159. (RESERVED).**

#### **160. SANITARY CONDITIONS.**

All pens, alleys, troughs, restraint facilities, and runways shall be kept in a sanitary condition. Operators of public livestock markets shall clean and disinfect livestock market facilities, under the supervision of a state or federal animal health official, upon request by the Administrator. (8-1-04)T

**161. -- 169. (RESERVED).**

#### **170. RECORDS.**

Each public livestock market shall keep sufficient records of animals presented for sale to enable state or federal animal health officials to trace such animals satisfactorily to their herd of origin, and such records shall be maintained for a minimum of five (5) years. (8-1-04)T

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Livestock Marketing**

**Docket No. 02-0426-0401**  
**PENDING RULE**

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**171. -- 989. (RESERVED).**

**990. PENALTIES.**

Any person who violates any of the provisions of this chapter may be subject to the criminal and civil penalties provided in Title 25, Chapters 2, 6, 17, and 35, Idaho Code. (8-1-04)T

**991. -- 998. (RESERVED).**

**999. MINOR VIOLATIONS.**

Nothing in this chapter shall be construed as requiring the Administrator to report minor violations when the Administrator believes that the public interest will be best served by suitable warnings or other administrative action. (8-1-04)T

# **Senate Agriculture Affairs Committee**

## **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

### **02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW**

#### **DOCKET NO. 02-0602-0401**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-2724, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rule incorporated by reference the 2004 version of Terms and Ingredient Definitions, and Policy Statements as published in the Official Publication of AAFCO, where those terms and ingredient definitions, and policy statements do not conflict with feed terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. The 13th edition of the Merck Index, as published in 2001, was also incorporated by reference into the rule. Sections required by the Office of Administrative Rules, such as, Legal Authority, Title and Scope, Definitions, and Office Hours, were also added.

The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 60 through 62.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 29th day of October, 2004.

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*The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is August 25, 2004.

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Pertaining to the Idaho Commercial Feed Law****Docket No. 02-0602-0401**  
**PENDING RULE**

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**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 25-2724, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Incorporates by reference the 2004 version of Terms and Ingredient Definitions, and Policy Statements as published in the Official Publication of AAFCO, where those terms and ingredient definitions, and policy statements do not conflict with feed terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. The 13th edition of the Merck Index, as published in 2001, will also be incorporated by reference into the rule. Sections required by the Office of Administrative Rules, such as, Legal Authority, Title and Scope, Definitions, and Office Hours, will also be added.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This change will adopt the 2004 edition of "The Official Publication of the Association of American Feed Control Officials (AAFCO)" and the Merck Index. These are standard reference manuals used by regulatory officials in the review and registration of animal feed products. They provide consistency between the states in the registration of animal feed products.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted due to the nature of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 16th day of August, 2004.

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Pertaining to the Idaho Commercial Feed Law**

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**Docket No. 02-0602-0401**  
**PENDING RULE**

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790, Boise, Idaho 83701  
Phone: (208) 332-8503  
Fax: (208) 334-2170

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### IDAPA 02, TITLE 06, CHAPTER 02

#### RULES ~~UNDER~~ PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

**000. LEGAL AUTHORITY.**

This chapter is adopted under the legal authority of Section 25-2724, Idaho Code. (8-25-04)T

**001. TITLE AND SCOPE.**

**01. Title.** The title of this chapter is IDAPA 02.06.02, “Rules Pertaining to the Idaho Commercial Feed Law”. (8-25-04)T

**02. Scope.** These rules specify general commercial feed label and ingredient requirements, special requirements for cottonseed and procedures concerning detained commercial feedstuffs. (8-25-04)T

**002. WRITTEN INTERPRETATIONS.**

There are no written interpretations of these rules. (8-25-04)T

**003. ADMINISTRATIVE APPEAL.**

There is no provision for administrative appeals before the Idaho State Department of Agriculture under this chapter. Hearing and appeal rights are pursuant to Title 67, Chapter 52, Idaho Code. (8-25-04)T

**004. INCORPORATION BY REFERENCE.**

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.02 incorporates by reference: (8-25-04)T

**01. The Association of American Feed Control Officials (AAFCO) Official Publication.** The Terms, Ingredient Definitions and Policies as published in the “2004 Official Publication” of AAFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 25, Chapter 27, Idaho Code, and any rule promulgated thereunder. (8-25-04)T

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Pertaining to the Idaho Commercial Feed Law

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Docket No. 02-0602-0401  
PENDING RULE

**02. The Merck Index.** The “2001 Merck Index,” 13th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (8-25-04)T

#### **005. ADDRESS, OFFICE HOURS, TELEPHONE AND FAX NUMBERS.**

**01. Physical Address.** The central office of the Idaho State Department of Agriculture is located at 2270 Old Penitentiary Road, Boise, Idaho 83712-0790. (8-25-04)T

**02. Office Hours.** Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the state of Idaho. (8-25-04)T

**03. Mailing Address.** The mailing address for the central office is Idaho State Department of Agriculture, P. O. Box 790, Boise, Idaho 83701. (8-25-04)T

**04. Telephone Number.** The telephone number of the central office is (208) 332-8500. (8-25-04)T

**05. Fax Number.** The fax number of the central office is (208) 334-2283. (8-25-04)T

#### **006. PUBLIC RECORDS ACT COMPLIANCE.**

These rules are public records and are available for inspection and copying at the department. (8-25-04)T

**0007. -- 009. (RESERVED).**

#### **010. DEFINITIONS AND TERMS.**

~~The names and definitions for commercial feeds shall be the Official Definition of Feed Ingredients adopted by the Association of American Feed Control Officials, (AAFCO) except as the Director designates otherwise in specific cases. The terms used in reference to commercial feeds shall be the Official Feed Terms adopted by the AAFCO, except as the Director designates otherwise in specific cases. The definitions and terms referred to are listed in the Official Publication of the Association of American Feed Control Officials. Copies are on file at: Idaho Department of Agriculture, Idaho State Law Library, and Idaho Legislative Council. (4-21-92)~~

**01. Hay.** The aerial portion of grass or herbage especially cut, cured and baled or stacked for animal feeding, without further processing. (8-25-04)T



## Senate Agriculture Affairs Committee

### IDAPA 02 - DEPARTMENT OF AGRICULTURE

#### 02.06.02 - RULES PERTAINING TO THE IDAHO COMMERCIAL FEED LAW

##### DOCKET NO. 02-0602-0402

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-2724, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule adopted the 2005 edition of The Official Publication of the Association of American Feed Control Officials. This is a standard reference manual used by the Department and other state and federal regulatory officials in the review and registration of animal feed products. It provides consistency between the states in the registration of animal feed products.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 63 and 64.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 29th day of October, 2004.

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#### *The Following Notice Was Published With The Proposed Rule*

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-2724, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Pertaining to the Idaho Commercial Feed Law****Docket No. 02-0602-0402**  
**PENDING RULE**

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agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

**This change will adopt the 2005 edition of The Official Publication of the Association of American Feed Control Officials. This is a standard reference manual used by the Department and other state and federal regulatory officials in the review and registration of animal feed products. It provides consistency between the states in the registration of animal feed products.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted due to the nature of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 16th day of August, 2004.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701  
Phone: (208) 332-8503  
Fax: (208) 334-2170

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### **004. INCORPORATION BY REFERENCE.**

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (8-25-04)T

#### **01. The Association of American Plant Food Control Officials (AAPFCO)**

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Pertaining to the Idaho Commercial Feed Law**

**Docket No. 02-0602-0402**  
**PENDING RULE**

**Official Publication.** The Terms, Ingredient Definitions, and Policies, as published in the “20045 Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder; or

~~(8-25-04)T~~(\_\_\_\_)

**02. The “Merck Index.** The “2001 Merck Index,” 13th Edition as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (8-25-04)T

# Senate Agriculture Affairs Committee

## IDAPA 02 - DEPARTMENT OF AGRICULTURE

### 02.06.05 - RULES GOVERNING DISEASES OF HOPS (*Humulus lupulus*)

DOCKET NO. 02-0605-0301

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 22, Chapter 20, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule addressed a request that was made by the Idaho Hop Commission to remove Boundary County from IDAPA 02.06.05 Section 100. Control Area for the purpose of allowing imported hops planting material into Boundary County without the requirement for a two-year evaluation of disease freedom outside of the control area.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the August 4, 2004 Idaho Administrative Bulletin, Volume 04-8, pages 19 and 20.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator, at (208) 332-8620.

DATED this 29th day of October, 2004.

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*The Following Notice Was Published With The Proposed Rule,  
This Rule Was Previously Published As A Temporary Rule*

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Title 22, Chapter 20, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Diseases of Hops (*Humulus Lupulus*)****Docket No. 02-0605-0301**  
**PENDING RULE**

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scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 18, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

A request was made by the Idaho Hop Commission to remove Boundary County from IDAPA 02.06.05 Section 100. Control Area for the purpose of allowing imported hops planting material into Boundary County without the requirement for a two-year evaluation of disease freedom outside of the control area.

In April 2003, the Department of Agriculture adopted this rule as a temporary rule with an effective date of February 21, 2003. The temporary rule was published in the Idaho Administrative Bulletin, Volume 03-4, April 2, 2003, page 11. With this publication the Department is initiating proposed rulemaking.

**FEE SUMMARY:** No fee is being imposed or increased by this rulemaking.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not conducted due to the nature of the proposed amendments.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Acting Administrator, at (208) 332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 25, 2004.

DATED this 11th day of June, 2004.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701  
Phone: (208) 332-8503  
Fax: (208) 334-2170

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### **100. CONTROL AREA.**

Except as stated in Subsection 350.03 of this rule, the control area is Bonner, ~~Boundary~~, and Kootenai Counties, State of Idaho. ~~(3-19-99)~~(2-21-03)T

## Senate Agriculture Affairs Committee

### IDAPA 02 - DEPARTMENT OF AGRICULTURE

#### 02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW

DOCKET NO. 02-0612-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-604, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule addressed changes to Title 22, Chapter 6, Idaho Code (HB548), which authorized a civil penalty assessment for specialty fertilizers deficient in nutrients as authorized by rule. Specific guidance was needed for assessing penalties as authorized in the revised law. Additionally, the overall index value currently set at 98% had been proven to be too strict and was decreased to 97%. Some technical corrections were also made.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 1, 2004 Idaho Administrative Bulletin, Volume 04-9, pages 46 through 52.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 29th day of October, 2004.

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*The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is July 28, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 22-604, Idaho Code.

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Pertaining to the Idaho Fertilizer Law**

**Docket No. 02-0612-0401**  
**PENDING RULE**

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**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 15, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Changes to Title 22, Chapter 6, Idaho Code (HB548), now authorize a civil penalty assessment for specialty fertilizers deficient in nutrients as authorized by rule. Specific guidance is needed for assessing penalties as authorized in the revised law. Additionally, the overall index value currently set at 98% has been proven to be too strict and will be decreased to 97%. Some technical corrections are also being made.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Changes to the governing law Title 22, Chapter 6, Idaho Code under HB548 necessitate that the rule be adopted as temporary rule in order that the regulatory activities including the assessment of penalties may continue unimpeded.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted through the Idaho State Department of Agriculture Fertilizer and Soil and Plant Amendment Advisory Committee.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 22, 2004.

DATED this 27th day of July, 2004.

Michael E. Cooper, Acting Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Pertaining to the Idaho Fertilizer Law

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Docket No. 02-0612-0401  
PENDING RULE

Phone: (208) 332-8503  
Fax: (208) 334-2170

#### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

##### 001. TITLE AND SCOPE.

**01. Title.** The title of this chapter is IDAPA 02.06.12, “~~Idaho State Department of Agriculture~~ Rules Pertaining to the Idaho Fertilizer Law”. ~~(3-30-01)(7-28-04)T~~

**02. Scope.** These rules specify general label requirements and label requirements for major and minor element guarantees for fertilizers, minimum percentages allowed for registration, the necessity for warning or caution statements, and set forth investigational allowances from which a product guarantee may deviate without being in violation of the law. (3-30-01)

#### (BREAK IN CONTINUITY OF SECTIONS)

##### 004. INCORPORATION BY REFERENCE.

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (3-30-01)

~~01. The Idaho Fertilizer Act of 2000, Title 22, Chapter 6, Idaho Code, Sections 22-601 Through 22-624;~~ ~~(3-30-01)~~

~~021. Terms and Definitions of~~ The Association of American Plant Food Control Officials (AAPFCO) ~~“2000 Official Publication”~~<sup>2</sup>. The Terms, Ingredient Definitions, and Policies, As published in the “~~2000~~4 Official Publication” of ~~the Association of American Plant Food Control Officials (AAPFCO)~~ where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder; or ~~(3-30-01)(7-28-04)T~~

~~032. The “1996 Merck Index, 12th Edition,”~~ The “2001 Merck Index,” 13th Edition as published by Merck Research Laboratories Division of Merck & Co., Incorporated. ~~(3-30-01)(7-28-04)T~~

#### (BREAK IN CONTINUITY OF SECTIONS)



## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Pertaining to the Idaho Fertilizer Law

Docket No. 02-0612-0401  
PENDING RULE

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#### 050. INVESTIGATIONAL ALLOWANCES.

**01. Use of Investigational Allowances.** Investigational Allowances shall be used in determining whether a fertilizer is deficient. Fertilizers which are deemed deficient are subject to penalty. Penalties for deficient fertilizers are found in Section 22-611, Idaho Code. (3-30-01)

**02. Deeming a Fertilizer Deficient.** A fertilizer shall be deemed deficient if the analysis of any nutrient is below the guarantee by an amount exceeding the values in the following schedules, or if the overall index value of the fertilizer is below ninety-~~eight~~ seven percent (987%). Note: For these investigational allowances to be applicable, the recommended AOAC International procedures for obtaining samples, preparation and analysis must be used. These are described in Official Methods of Analysis of the Association of Official Analytical Chemists, 13<sup>th</sup> Edition, 1980, and in succeeding issues of the Journal of the Association of Official Analytical Chemists. In evaluating replicate data, Table 19, page 935, Journal of the Association of Official Analytical Chemists, Volume 49, No. 5, October, 1966, should be followed. (~~3-30-01~~)(7-28-04)T

**03. Investigational Allowances for Nitrogen, Phosphate and Potash.** For guaranteed percentages not listed in the following table, calculate the appropriate investigational allowance by interpolation.

Guaranteed Percent	Nitrogen Percent	Available Phosphate Percent	Potash Percent
04 or less	0.49	0.67	0.41
05	0.51	0.67	0.43
06	0.52	0.67	0.47
07	0.54	0.68	0.53
08	0.55	0.68	0.60
09	0.57	0.68	0.65
10	0.58	0.69	0.70
12	0.61	0.69	0.79
14	0.63	0.70	0.87
16	0.67	0.70	0.94
18	0.70	0.71	1.01
20	0.73	0.72	1.08
22	0.75	0.72	1.15
24	0.78	0.73	1.21
26	0.81	0.73	1.27
28	0.83	0.74	1.33
30	0.86	0.75	1.39

## Senate Agriculture Affairs Committee

### DEPARTMENT OF AGRICULTURE Rules Pertaining to the Idaho Fertilizer Law

Docket No. 02-0612-0401  
PENDING RULE

Guaranteed Percent	Nitrogen Percent	Available Phosphate Percent	Potash Percent
32 or more (*)	0.88	0.76	1.44

(\*For DAP and MAP, the Investigational Allowance for Available Phosphate shall be zero point seventy (0.70); for TSP, the Investigational Allowance shall be: one point fifty-two (1.52)). For dry custom mix fertilizers, an additional five percent (5%) of the guaranteed percentage shall be granted in addition to the allowances made in Subsection 050.03. ~~(3-30-01)(7-28-04)T~~

**04. Investigational Allowance for Other Nutrients.** Secondary and minor elements shall be deemed deficient if any element is below the guarantee by an amount exceeding the values in the following schedule:

Element	Investigational Allowance
Calcium )	0.2 unit + 5% of guarantee
Magnesium )	0.2 unit + 5% of guarantee
Sulfur )	0.2 unit + 5% of guarantee
Boron )	0.003 unit + 15% of guarantee
Cobalt )	0.0001 unit + 30% of guarantee
Chlorine )	0.005 unit + 10% of guarantee
Copper )	0.005 unit + 10% of guarantee
Iron )	0.005 unit + 10% of guarantee
Manganese )	0.005 unit + 10% of guarantee
Molybdenum )	0.0001 unit + 30% of guarantee
Sodium )	0.005 unit + 10% of guarantee
Zinc )	0.005 unit + 10% of guarantee

The maximum allowance when calculated as specified shall be one (1) unit (one percent (1%)). For dry custom mix fertilizers, an additional five percent (5%) of the guarantee shall be granted in addition to the allowances made above in this section. (3-30-01)

**05. Overall Index Value.** The overall index value is calculated by comparing the commercial dollar value guaranteed with the commercial dollar value found ( $\frac{\text{Commercial Dollar Value found}}{\text{Commercial dollar value guaranteed}} \times 100$ ). Unit dollar values of the nutrients used shall be those referred to in Section 22-612, Idaho Code. The Department will conduct periodic surveys of the industry to determine unit dollar values. ~~(3-30-01)(7-28-04)T~~

**06. Examples.** Overall index value - Example of calculation for a 10-10-10 grade found to contain 10.1% Total Nitrogen (N), 10.2% Available Phosphate ( $P_2O_5$ ) and 10.1% Soluble Potash ( $K_2O$ ). Nutrient unit values are assumed to be three dollars (\$3.00) per unit N, two dollars (\$2.00) per unit  $P_2O_5$ , and one dollar (\$1.00) per unit  $K_2O$ . The following are examples of calculations for a custom mixed fertilizer of a 12-16-14 grade. For the purpose of

## Senate Agriculture Affairs Committee

### DEPARTMENT OF AGRICULTURE Rules Pertaining to the Idaho Fertilizer Law

**Docket No. 02-0612-0401**  
**PENDING RULE**

these examples, the nutrient unit dollar values for all of the examples are assumed to be twenty-three cents (\$.23) per pound of nitrogen, twenty-seven cents (\$.27) per pound of available phosphate ( $P_2O_5$ ), and eighteen cents (\$.18) per pound of potash ( $K_2O$ ).

10.0 units N	$\times 3 = 30.0$
10.0 units $P_2O_5$	$\times 2 = 20.0$
10.0 units $K_2O$	$\times 1 = 10.0$
Commercial Value Guaranteed	= 60.0
10.1 units N	$\times 3 = 30.3$
10.2 units $P_2O_5$	$\times 2 = 20.4$
10.1 units $K_2O$	$\times 1 = 10.1$
Commercial Value Found	= 60.8
Overall Index Value	$= 100 (60.8/60.00) = 101.3\%$

Example 1. A ten thousand (10,000) pound batch of customer formula fertilizer guaranteed at 12.0-16.0-14.0 is analyzed and found at 10.6-16.4-14.3

<u>Nutrient</u>	<u>Guaranteed</u>	<u>x price/lb</u>	<u>Found</u>	<u>x price/lb</u>
N	12.0	\$2.76 (\$.23 x 12.0)	10.6	\$2.438 (\$.23 x 10.6)
$P_2O_5$	16.0	\$4.32 (\$.27 x 16.0)	16.4	\$4.428 (\$.27 x 16.4)
$K_2O$	14.0	\$2.52 (\$.18 x 14.0)	14.3	\$2.574 (\$.18 x 14.3)
Total		\$9.60		\$9.44

Overall Index Value = (\$9.44/\$9.60) x 100 = 98.3%

However, the nitrogen value is in violation. The investigational allowance for a nitrogen guarantee of 12.0% is 0.61% (see the chart in section 02.06.12.050.03 above) plus an additional 5% of the guarantee for customer formula mixes. Therefore the nitrogen value must be at least 10.79%:  $(12.0 - [.61 + 12.0(.05)] = 10.79\%)$  in order to be within permissible values.

To find the amount (Lbs.) of N deficiency multiply the percent guaranteed by the weight of the lot minus the percentage found multiplied by the weight of the lot.

$(.12) (12\%) \text{ guaranteed} \times 10,000 \text{ lbs}) - (.106) (10.6\%) \text{ found} \times 10,000 \text{ lbs}) = 140 \text{ pounds}$

The penalty will be calculated as three times the value of a deficiency of 140 pounds of nitrogen

# Senate Agriculture Affairs Committee

## DEPARTMENT OF AGRICULTURE Rules Pertaining to the Idaho Fertilizer Law

Docket No. 02-0612-0401  
PENDING RULE

in the 10,000 pound batch.  $3 \times [140 (\$.23)] = \$96.60$

Example 2. A ten thousand (10,000) pound batch of customer formula fertilizer guaranteed at 12.0-16.0-14.0 is analyzed at 11.1-15.3-13.1.

Nutrient	Guaranteed	x price/lb	Found	x price/lb
N	12.0	\$2.76 (\$.23 x 12.0)	11.1	\$2.553 (\$.23 x 11.1)
P <sub>2</sub> O <sub>5</sub>	16.0	\$4.32 (\$.27 x 16.0)	15.3	\$4.131 (\$.27 x 15.3)
K <sub>2</sub> O	14.0	\$2.52 (\$.18 x 14.0)	13.1	\$2.358 (\$.18 x 13.1)
Total		\$9.60		\$9.042

Overall Index Value =  $(\$9.042/\$9.60) \times 100 = 94.2\%$

Although each of the individual nutrients is within the investigational allowance, the cumulative deficiency is reflected in the Overall Index Value.

The investigational allowance table shows for a nitrogen guarantee of 12%, the allowance is 0.61%. An additional allowance of 5% of the guarantee is 0.60%. The minimum nitrogen value is then  $12.0 - [0.61 + (.05 \times 12)] = 10.79$ .

The minimum acceptable values for P<sub>2</sub>O<sub>5</sub> and K<sub>2</sub>O will be 14.50 and 12.43, respectively.

The penalty will be calculated as follows:

Nutrient	Guaranteed lbs	-	Found lbs	=	Deficient lbs	x	price/lb
N	1200 (.12 x 10,000)	-	1110 (.111 x 10,000)	=	90	x	\$20.70 (\$.23 x 90 lbs)
P <sub>2</sub> O <sub>5</sub>	1600 (.16 x 10,000)	-	1530 (.153 x 10,000)	=	70	x	\$18.90 (\$.27 x 70 lbs)
K <sub>2</sub> O	1400 (.14 x 10,000)	-	1310 (.131 x 10,000)	=	90	x	\$16.20 (\$.18 x 90 lbs)
Total							\$55.80

$3 (\$55.80) = \$167.40$

If the examples were specialty fertilizers rather than customer formula mixes, the penalties will be assessed in accordance with Subsection 090.01.c.i.(1). ~~(3-30-01)~~(7-28-04)T

## Senate Agriculture Affairs Committee

**DEPARTMENT OF AGRICULTURE**  
**Rules Pertaining to the Idaho Fertilizer Law**

**Docket No. 02-0612-0401**  
**PENDING RULE**

### **(BREAK IN CONTINUITY OF SECTIONS)**

**081. -- 089. (RESERVED)**

**090. ENFORCEMENT GUIDELINES.**

**01. Civil Penalties.** In addition to any other penalty provided by law, the Director may assess civil penalties for violations of Title 22, Chapter 6, Idaho Code. Civil penalties will be issued in accordance to the magnitude of the violation. The department is not precluded from utilizing other enforcement alternatives. Enforcement alternatives may include, but are not limited to, letter of advisement, notice of violation, stop sale, use or removal order, and registration revocation, suspension or denial. Prohibited acts are categorized as to the magnitude of violation as follows: (7-28-04)T

**a. Category I (Major).** The Director may issue a civil penalty for initial Category I violations in addition to any alternative enforcement action deemed necessary to protect the public interests. Category I violations include but are not limited to the following: (7-28-04)T

**i. Register or attempt to register any fertilizer using fraudulent or deceptive practices to evade or attempt to evade the requirements set forth under Title 22, Chapter 6, Idaho Code, or rules adopted thereunder;** (7-28-04)T

**ii. Submit false or fraudulent registration applications, records, invoices or reports;** (7-28-04)T

**iii. Sell, use or remove any fertilizer subject to a Stop Sale, Use or Removal Order until the fertilizer has been released in accordance with the provisions of Title 22, Chapter 6, Idaho Code.** (7-28-04)T

**iv. Impede, obstruct, hinder or otherwise prevent or attempt to prevent the department from the performance of its duties under Title 22, Chapter 6, Idaho Code.** (7-28-04)T

**b. Category II (Moderate).** The Director may take initial alternative enforcement action and may allow a specified amount of time to take corrective action prior to issuance of a civil penalty for a Category II violation. Failure to complete the required corrective action within the specified time period, or repeat violations, will result in the issuance of a civil penalty. Category II violations include but are not limited to the following: (7-28-04)T

**i. Sell, offer for sale, or distribute adulterated fertilizers;** (7-28-04)T

**ii. Fail, refuse, or neglect to keep or maintain records as required under Title 22, Chapter 6, Idaho Code, or refuse to make available such records upon request by the department;** (7-28-04)T

**iii. Knowingly or intentionally make any false or misleading representations in connection with the sale, offer for sale, or distribution of fertilizer.** (7-28-04)T

## Senate Agriculture Affairs Committee

### **DEPARTMENT OF AGRICULTURE** **Rules Pertaining to the Idaho Fertilizer Law**

**Docket No. 02-0612-0401**  
**PENDING RULE**

c. Category III (Minor). The Director may take initial alternative enforcement action in writing and may allow a specified amount of time to take corrective action prior to the issuance of a civil penalty for a Category III violation, except in the case of a deficiency as listed in Subsection 090.01.c.i.(1), in which case a civil penalty will be issued. Failure to complete the corrective action within the specified time period, or repeat violations, may result in the issuance of a civil penalty. Category III violations include but are not limited to the following: (7-28-04)T

i. Sell, offer for sale, or distribute mislabeled fertilizers, including, but not limited to, when the fertilizer is: (7-28-04)T

(1) A specialty fertilizer deemed deficient as defined in Section 22-603 (7), Idaho Code; (7-28-04)T

(2) Labeled in violation of Section 22-607, Idaho Code. (7-28-04)T

ii. Fail, refuse, or neglect to deliver to a purchaser of a bulk fertilizer a printed label that complies with Section 22-603 (2) and (3), Idaho Code; (7-28-04)T

iii. Sell, offer for sale, or distribute a fertilizer that is not registered pursuant to Section 22-605, Idaho Code; (7-28-04)T

iv. Fail, refuse, or neglect to file a semi-annual tonnage report pursuant to Sections 22-608 and 22-609, Idaho Code; (7-28-04)T

v. Fail, refuse, or neglect to pay inspection fees required under Section 22-608, Idaho Code. (7-28-04)T

**02. Maximum Civil Penalties.** Penalties for Category II and III violations will accrue during one (1) calendar year; Violations for Category I will accrue during periods of three (3) calendar years beginning these intervals with the year 2004.

<u>Category</u>	<u>1st Violation</u>	<u>2nd Violation</u>	<u>3rd+ Violation</u>
Category I (Major)	\$500	\$1500	\$10,000
Category II (Moderate)	\$250	\$750	\$5000
Category III (Minor)	\$125	\$250	\$500

(7-28-04)T

**03. Payment of Penalties.** As authorized under Section 22-619, Idaho Code, a civil penalty imposed may be remitted or reduced upon such terms and conditions as the Director considers proper and consistent with the public health and safety. (7-28-04)T

**04. Substantial Harm.** Any violation that results in substantial harm to human health or the environment, may be subject to a civil penalty of not more than ten thousand dollars (\$10,000) for the initial violation or any subsequent violation. (7-28-04)T

**0891. -- 999. (RESERVED).**

## Senate Agriculture Affairs Committee

### IDAPA 02 - DEPARTMENT OF AGRICULTURE

#### 02.06.12 - RULES PERTAINING TO THE IDAHO FERTILIZER LAW

#### DOCKET NO. 02-0612-0402

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-604, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule adopted the 2005 edition of The Official Publication of the Association of American Plant Food Control Officials. This is a standard reference manual used by the Department and other state and federal regulatory officials in the review and registration of fertilizer products. It provides consistency between the states in the registration of fertilizer products.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 65 and 66.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 29th day of October, 2004.

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#### *The Following Notice Was Published With The Proposed Rule*

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-604, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Pertaining to the Idaho Fertilizer Law****Docket No. 02-0612-0402**  
**PENDING RULE**

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scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

**This change will adopt the 2005 edition of the Official Publication of the Association of American Plant Food Control Officials. This is a standard reference manual used by the Department and other state and federal regulatory officials in the review and registration of fertilizer products. It provides consistency between the states in the registration of fertilizer products.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted due to the nature of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 16th day of August, 2004.

Patrick A. Takasugi  
Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701  
Phone: (208) 332-8503  
Fax: (208) 334-2170

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### **004. INCORPORATION BY REFERENCE.**

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.12 incorporates by reference: (3-30-01)



## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Pertaining to the Idaho Fertilizer Law**

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**Docket No. 02-0612-0402**  
**PENDING RULE**

**01. The Association of American Plant Food Control Officials (AAPFCO) Official Publication.** The Terms, Ingredient Definitions, and Policies, as published in the “20045 Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 6, Idaho Code, and any rule promulgated thereunder; or

~~(7-28-04)T~~(\_\_\_\_)

**02. The “Merck Index.** The “2001 Merck Index,” 13th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated.

(7-28-04)T

# **Senate Agriculture Affairs Committee**

## **IDAPA 02 - DEPARTMENT OF AGRICULTURE**

### **02.06.26 - RULES GOVERNING SEED POTATO CROP MANAGEMENT AREAS**

#### **DOCKET NO. 02-0626-0401**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Title 22, Chapter 20, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule defined the geographical boundaries for a new Seed Potato Crop Management Area in Elmore County to be known as the Little Camas Ranch Seed Potato Crop Management Area.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the September 1, 2004 Idaho Administrative Bulletin, Volume 04-9, pages 27 through 30. Note: These pages were printed out of sequence and follow page 52 in the Bulletin.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Garry West, Program Manager at (208) 736-2195 or Michael E. Cooper, Acting Administrator at (208) 332-8620.

DATED this 29th day of October, 2004.

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***The Following Notice Was Published With The Temporary And Proposed Rule***

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Title 22, Chapter 20, Idaho Code.

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Seed Potato Crop Management****Docket No. 02-0626-0401**  
**PENDING RULE**

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**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 15, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**To define the geographical boundaries for a new Seed Potato Crop Management Area in Elmore County to be known as the Little Camas Ranch Seed Potato Crop Management Area.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To confer a benefit to the Idaho potato growers in Elmore County.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted due to the nature of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Garry West, Program Manager at (208) 736-2195 or Michael E. Cooper, Acting Administrator at (208) 332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 22, 2004.

DATED this 30th day of July, 2004.

Michael E. Cooper, Acting Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701  
Phone: (208) 332-8503  
Fax: (208) 334-2170

**THE FOLLOWING IS THE TEXT OF THE PENDING RULE**

## Senate Agriculture Affairs Committee

**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Seed Potato Crop Management**

**Docket No. 02-0626-0401**  
**PENDING RULE**

### **020. SEED POTATO CROP MANAGEMENT AREAS.**

**01. Fremont Seed Potato Crop Management Area.** That portion of Fremont county described as follows: Beginning at a point which is the southwest corner of Section 16, Township 7 North, Range 43 East, Boise, Meridian, Fremont County, Idaho; Thence north approximately 1 mile to the northwest corner of Section 16, Township 7 North, Range 43 East; Thence west approximately 2 miles to the southwest corner of Section 7, Township 7 North, Range 43 East; Thence north approximately 1 mile to the northwest corner of Section 7, Township 7 North, Range 43 East; Thence west approximately 3 miles to the southwest corner of Section 3, Township 7 North, Range 42 East; Thence north approximately 2 miles to the northwest corner of Section 34, Township 8 North, Range 42 East; Thence west approximately 2 miles to the southwest corner of Section 29, Township 8 North, Range 42 East; Thence north approximately 1-3/8 miles to the center line of Fall River; Thence northwest along Fall River approximately 1-1/8 miles to where Fall River intersects the west line of Section 8, Township 8 North, Range 41 East; Thence north approximately 1-7/8 miles to the northwest corner of Section 7, Township 18 North, Range 41 East; Thence west approximately 2 miles to the southwest corner of Section 2, Township 8 North, Range 41 East; Thence north approximately 1 mile to the northwest corner of Section 2, Township 8 North, Range 41 East; Thence west approximately 1/4 of 1 mile; Thence north along an existing road approximately 4 miles; Thence northeasterly along said road approximately 1-1/10 miles to the northwest corner of Section 11, Township 9 North, Range 41 East; Thence north approximately 1 mile to the northwest corner of Section 2, Township 9 North, Range 41 East; Thence east approximately 14 miles to the northeast corner of Section 1, Township 9 North, Range 43 East; Thence south approximately 2 miles to the southeast corner of Section 12, Township 9 North, Range 43 East; Thence east approximately 4 miles to the northeast corner of Section 15, Township 9 North, Range 44 East, which is the west boundary line of the Targhee National Forest; Thence south along said forest boundary approximately 3 miles to the southeast corner of Section 27, Township 9 North, Range 44 East; Thence east continuing along said forest boundary approximately 2 miles to the northeast corner of Section 36, Township 9 North, Range 44 East; Thence south along said forest boundary approximately 1 mile to the east 1/4 corner of Section 1, Township 8 North, Range 44 East; Thence east continuing along said forest boundary approximately 2 miles to the east 1/4 corner of Section 5, Township 8 North, Range 45 East; Thence south continuing along said forest boundary approximately 5 miles to the east 1/4 corner of Section 32, Township 8 North, Range 45 East; Thence east continuing along said forest boundary approximately 1-1/2 miles to the center of Section 34, Township 8 North, Range 45 East; Thence south continuing along said forest boundary approximately 1-1/8 miles to the center line of Bitch Creek; Thence southwesterly along the center line of Bitch Creek approximately 10-1/2 miles to the confluence of Bitch Creek with the Teton River; Thence westerly 8 miles along the center line of the Teton River to the west line of Section 21, Township 7 North, Range 43 East; Thence north approximately 1/10 of a mile to the southwest corner of Section 16, Township 7 North, Range 43 East and the point of beginning. (5-3-03)

**02. Teton And Portions Of Madison County Seed Potato Crop Management Area.** (5-3-03)

**a.** All of Teton County, Idaho; (5-3-03)

## Senate Agriculture Affairs Committee

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### **DEPARTMENT OF AGRICULTURE Rules Governing Seed Potato Crop Management**

**Docket No. 02-0626-0401  
PENDING RULE**

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**b.** That portion of Madison County, Idaho, located in Township 6 North and Township 7 North lying East of Canyon Creek; and (5-3-03)

**c.** That portion of Madison County, Idaho located in Township 6 North, Range 42 East which includes portions of Sections 11 and 13 located south of Highway 33 and all of Sections 14, 15, 23, and 24. (5-3-03)

**03. Lost River Seed Potato Crop Management Area.** Those portions of Butte and Custer Counties within Township 3 North to Township 7 North and Range 23 East to Range 27 East. (5-3-03)

**04. Caribou And Franklin County Seed Potato Crop Management Area.** All of Caribou County, Idaho and all of Franklin County, Idaho. (5-3-03)

**05. Almo Valley Bridge Seed Potato Crop Management Area.** (5-3-03)

**a.** That portion of Cassia County, Idaho located in Township 16 South, Range 24 East which includes all of Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36; (5-3-03)

**b.** That portion of Cassia County, Idaho located in Township 15 South, Range 24 East which includes all of Sections 1, 2, 3, 4, 9, 10, 11, 12, 13, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36; (5-3-03)

**c.** That portion of Cassia County, Idaho located in Township 14 South, Range 24 East which includes all of Section 36; (5-3-03)

**d.** That portion of Cassia County, Idaho located in Township 14 South, Range 25 East which includes all of Sections 19, 20, 29, 30, 31, and 32; (5-3-03)

**e.** That portion of Cassia County, Idaho located in Township 15 South, Range 25 East which includes all of Sections 5, 6, 7, 8, 18, 19, 20, 29, 30, 31, 32 and the Northeast ¼ of Section 33; (5-3-03)

**f.** That portion of Cassia County, Idaho located in Township 16 South, Range 25 East which includes all of Sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 20, 29, 30, 31, 32, 33, 34, 35, and 36; (5-3-03)

**g.** That portion of Cassia County, Idaho located in Township 16 South, Range 26 East; and (5-3-03)

**h.** That portion of Cassia County, Idaho located in Township 16 South, Range 27 East which includes all of Sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, and 30. (5-3-03)

**06. Ririe Reservoir Seed Potato Crop Management Area.** (5-3-03)

**a.** That portion of Bonneville County, Idaho located in Township 3 North, Range 40

## Senate Agriculture Affairs Committee

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### DEPARTMENT OF AGRICULTURE Rules Governing Seed Potato Crop Management

Docket No. 02-0626-0401  
PENDING RULE

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East which includes all of Sections 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 31, 33, 34, 35, and 36;  
(5-3-03)

**b.** That portion of Bonneville County, Idaho located in Township 3 North, Range 41 East which includes all of Sections 8, 15, 16, 17, 18, 20, 21, 22, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36;  
(5-3-03)

**c.** That portion of Bonneville County, Idaho located in Township 2 North, Range 42 East which includes all of Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33, and 34; and  
(5-3-03)

**d.** That portion of Bonneville County, Idaho located in Township 3 North, Range 42 East which includes all of Sections 31, 32, and 33.  
(5-3-03)

**07. Picabo Seed Potato Crop Management Area.** That portion of Blaine County, Idaho beginning with Township 1S, in Range 18, all of sections 23 and 24, leading into Township 1N, in Range 19 all of sections: 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 31, 32, 33, and 34. Leading into Township 1S, in Range 19, the W ½ of section 1, and all of sections: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 29. Leading into Township 1S, Range 20, all of sections: 7, 8, 11, 12, 13, 16, 17, 18, 19, 20, 21, 22, 26, 27, 28, 29, 30, 35, and 36, including the N ½ of Sections 33 and 34. Leading into Township 2S, Range 20, all of sections 1, 2, and 12. Leading into Township 1S, Range 21, all of sections: 3, 4, 5, 6, 7, 8, 9, 10, 16, 17, 18, 19, 20, W ½ of section 28, and all of sections 29, 30, 31, 32, and the NW ¼ of section 33, from Hwy 20 North, plus section 21 from Dry Creek Road North. Leading into Township 2S, Range 21, all of the W ½ of section 3, and all of the following sections: 4, 5, 6, 7, 8, E ½ of section 9, all of sections 17, 18, 19, 20, 21, 28, 29, 30, and 31, W ½ and the SE ½ of the NE ¼ of section 10. Leading into Township 1N, Range 21, all of sections: 30, 31, and 32. All U.S. Department of the Interior, Bureau of Land Management property and property owned by the state of Idaho existing within the above mentioned areas will not be considered part of the management area. (3-20-04)

**08. Little Camas Ranch Seed Potato Crop Management Area.** (7-1-04)T

**a.** That portion of Elmore County, Idaho located in Township 1 North, Range 9 East, Boise Meridian, which includes the S ½ N ½ SE ¼, S ½ SE ¼, SW ¼ of Section 27, the SE ¼ SE ¼, SW ¼ SW ¼ of Section 28, the S ½ S ½, N ½ SE ¼, SE ¼ NE ¼, W ½ NE ¼, NE ¼ NE ¼ NW ¼, S ½ NE ¼ NW ¼, SE ¼ NW ¼, N ½ SW ¼, NE ¼ NE ¼ of Section 32, the E ½, E ½ W ½, SW ¼ SW ¼, NW ¼ SW ¼, SW ¼ NW ¼, NW ¼ NW ¼ of Section 33, and all of Section 34; and  
(7-1-04)T

**b.** That portion of Elmore County, Idaho located in Township 1 South, Range 9 East, Boise Meridian which includes all of Section 4, all less the SW ¼ NW ¼ and less the W ½ SW ¼ of Section 5, the N ½ NE ¼ of Section 8, and the NW ¼ NE ¼, N ½ NW ¼ of Section 9; and  
(7-1-04)T

**c.** That portion of Elmore County, Idaho located in Township 1 South, Range 9 East, Boise Meridian, which includes Lots 1, 2, 3, and 4, and the S ½ N ½, N ½ SE ¼, SW ¼ of Section 3 less Tax Lot 1 described as follows: That portion of Elmore County, Idaho located in Township 1 South Range 9 East, Boise Meridian, described above as Tax Lot 1: Save and Except that

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Rules Governing Seed Potato Crop Management****Docket No. 02-0626-0401**  
**PENDING RULE**

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portion of S  $\frac{1}{2}$  SW  $\frac{1}{4}$ , Section 3, Township 1 South, Range 9 East, Boise Meridian, Elmore County, Idaho more particularly described as follows: Commencing at the Southwest corner of Section 3, Township 1 South, Range 9 East, Boise Meridian, and running thence South  $89^{\circ}51'$  East along the South Section line of said Section 3, a distance of 437 feet to a steel pin in the center of a graveled road, the Real Point of Beginning. Thence continuing from the Real Point of Beginning North  $0^{\circ}04'$  West a distance of 1,000 feet to a steel pin; thence South  $89^{\circ}51'$  East a distance of 1,742.4 feet to a steel pin; thence South  $0^{\circ}04'$  East a distance of 1,000 feet to a steel pin on the South Section line of said Section 3; thence North  $89^{\circ}51'$  West along the South Section line of said Section 3 a distance of 1,742.4 feet, more or less to the Real Point of Beginning more particularly described as Tax Lot 1. (7-1-04)T

## Senate Agriculture Affairs Committee

### IDAPA 02 - DEPARTMENT OF AGRICULTURE

#### 02.06.41 - RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

DOCKET NO. 02-0641-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-2204, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule incorporated by reference the 2004 version of Terms and Ingredient Definitions, and Policy Statements as published in the Office Publication AAPFCO, where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. The 13<sup>th</sup> edition of "The Merck Index," as published in 2001, was also incorporated by reference into this rule.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 67 and 68.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 29th day of October, 2004.

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*The Following Notice Was Published With The Temporary And Proposed Rule*

**EFFECTIVE DATE:** The effective date of the temporary rule is August 25, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures



## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE****Docket No. 02-0641-0401****Rules Pertaining to the Soil and Plant Amendment Act of 2001****PENDING RULE**

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have been initiated. The action is authorized pursuant to Section 25-2204, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

**Incorporate by reference the 2004 version of Terms and Ingredient Definitions, and Policy Statements as published in the Official Publication AAPFCO, where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. The 13th edition of "The Merck Index," as published in 2001, will also be incorporated by reference into the rule.**

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

This change will adopt the 2004 edition of The Official Publication of the Association of American Plant Food Control Officials (AAPFCO) and the Merck Index. These are standard reference manuals used by regulatory officials in the review and registration of soil and plant amendment products. They provide consistency between the states in the registration of soil and plant amendment products.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted due to the nature of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 16th day of August, 2004.

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE****Docket No. 02-0641-0401****Rules Pertaining to the Soil and Plant Amendment Act of 2001****PENDING RULE**

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Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790, Boise, Idaho 83701  
Phone: (208) 332-8503 / Fax: (208) 334-2170

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

**004. ~~(RESERVED)~~ INCORPORATION BY REFERENCE.**

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.41 incorporates by reference: (8-25-04)T

**01. The Association Of American Plant Food Control Officials (AAPFCO) Official Publication.** The Terms, Ingredient Definitions and Policies as published in the “2004 Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder. (8-25-04)T

**02. The Merck Index.** The “2001 Merck Index,” 13th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated. (8-25-04)T

## Senate Agriculture Affairs Committee

### IDAPA 02 - DEPARTMENT OF AGRICULTURE

#### 02.06.41 - RULES PERTAINING TO THE IDAHO SOIL AND PLANT AMENDMENT ACT OF 2001

DOCKET NO. 02-0641-0402

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-2204, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The proposed rule adopted the 2005 edition of the Official Publication of the Association of American Plant Food Control Officials. This is a standard reference manual used by the Department and other state and federal regulatory officials in the review and registration of soil and plant amendment products. It provides consistency between the states in the registration of soil and plant amendment products.**

**The department received no public comments on this rule and the pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 69 and 70.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

DATED this 29th day of October, 2004.

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#### *The Following Notice Was Published With The Temporary And Proposed Rule*

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-2204, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an

## Senate Agriculture Affairs Committee

**DEPARTMENT OF AGRICULTURE**  
**Idaho Soil and Plant Amendment Act of 2001**

**Docket No. 02-0641-0402**  
**PENDING RULE**

agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a non-technical explanation of the substance and purpose of the proposed rulemaking:

**This change will adopt the 2005 edition of the Official Publication of the Association of American Plant Food Control Officials. This is a standard reference manual used by the Department and other state and federal regulatory officials in the review and registration of fertilizer products. It provides consistency between the states in the registration of soil and plant amendment products.**

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted due to the nature of this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Michael E. Cooper, Acting Administrator or Ann Brueck, Program Specialist at (208) 332-8620.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 16th day of August, 2004.

Patrick A. Takasugi, Director  
Idaho State Department of Agriculture  
2270 Old Penitentiary Road  
P.O. Box 790  
Boise, Idaho 83701  
Phone: (208) 332-8503  
Fax: (208) 334-2170

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### **004. INCORPORATION BY REFERENCE.**

Copies of these documents may be obtained from the Idaho State Department of Agriculture, 2270 Old Penitentiary Road, PO Box 790, Boise, Idaho 83701. IDAPA 02.06.41 incorporates by reference: (8-25-04)T

#### **01. The Association Of American Plant Food Control Officials (AAPFCO)**

## Senate Agriculture Affairs Committee

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**DEPARTMENT OF AGRICULTURE**  
**Idaho Soil and Plant Amendment Act of 2001**

**Docket No. 02-0641-0402**  
**PENDING RULE**

**Official Publication.** The Terms, Ingredient Definitions and Policies as published in the “20045 Official Publication” of AAPFCO where those terms and ingredient definitions, and policy statements do not conflict with terms and ingredient definitions, and policy statements adopted under Title 22, Chapter 22, Idaho Code, and any rule promulgated thereunder.

~~(8-25-04)T~~(\_\_\_\_)

**02. The Merck Index.** The “2001 Merck Index,” 13th Edition, as published by Merck Research Laboratories Division of Merck & Co., Incorporated.

(8-25-04)T

## Senate Agriculture Affairs Committee

### IDAPA 51 - IDAHO BEEF COUNCIL

#### 51.01.01 - IDAHO BEEF COUNCIL RULES

DOCKET NO. 51-0101-0401

#### NOTICE OF RULEMAKING - PENDING RULE

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2005 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-2906(9), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

**The pending rule is being adopted as proposed with no changes. The complete text of the proposed rule was published in the October 6, 2004 Idaho Administrative Bulletin, Volume 04-10, pages 658 through 659.**

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Laura Wilder, Executive Director, at (208) 376-6004.

DATED this 28th day of October, 2004.

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#### *The Following Notice Was Published With The Proposed Rule*

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 25-2906(9), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 20, 2004.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and

## Senate Agriculture Affairs Committee

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**IDAHO BEEF COUNCIL**  
**Idaho Beef Council Rules**

**Docket No. 51-0101-0401**  
**PENDING RULE**

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purpose of the proposed rulemaking:

This rulemaking updates references to the Idaho Beef Council's address and includes the new logo, eliminating mention of a copyright that does not exist. As a result of its merger with the National Cattlemen's Association, the Beef Industry Council of the National Livestock and Meat Board no longer exists. The rulemaking deletes the outdated reference to the Beef Industry Council and replaces it with generic language permitting the funds to be sent to a "national beef promotion program".

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

This rulemaking does not impose or increase any fee or charge.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the corrections made by this rulemaking are non-controversial.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Laura Wilder, Executive Director, at (208) 376-6004.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 27, 2004.

DATED this 24th day of August, 2004.

Laura Wilder  
Executive Director  
Idaho Beef Council  
2118 Airport Way  
Boise, Idaho 83705-5156  
Fax: (208) 376-6002

### THE FOLLOWING IS THE TEXT OF THE PENDING RULE

#### **007. OFFICE ADDRESS--OFFICE HOURS.**

The Idaho Beef Council is located at ~~212 South Cole Road~~ 2118 Airport Way, Boise, Idaho, 83709~~5~~, telephone (208) 376-6004, FAX (208) 376-6002. The Idaho Beef Council office is open from 8 a.m. to 5 p.m., Monday through Friday. (7-1-93)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

## Senate Agriculture Affairs Committee

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**IDAHO BEEF COUNCIL**  
**Idaho Beef Council Rules**

**Docket No. 51-0101-0401**  
**PENDING RULE**

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### **200. DISBURSEMENTS.**

**01. Collection Fee, Brand Inspector.** The Idaho Beef Council shall reimburse the State Brand Inspector for the reasonable and necessary expenses incurred in the collection of the assessment in an amount determined by the Beef Council and the State Brand Inspector, not to exceed five percent (5%) of gross collections. (7-1-93)

**02. National Beef Promotion and Research Board.** Of the one dollar (\$1) national assessment, the Idaho Beef Council will receive fifty cents (\$.50) credit per head of cattle assessed. The remaining fifty cents (\$.50) will be forwarded to the Cattlemen's Beef Promotion and Research Board. (Federal Register, July 18, 1986, 7 CFR Part 1260). (7-1-93)

**03. ~~Beef Industry Council Of The~~ National ~~Livestock And Meat Board~~ Beef Promotion Program.** A total of at least twenty percent (20%) of the Idaho credit shall be paid by the Idaho Beef Council to ~~the Beef Industry Council of the National Livestock and Meat Board~~ a national beef promotion program for ~~their~~ use in promotion, research and educational activities. (7-1-93)( )

### **(BREAK IN CONTINUITY OF SECTIONS)**

### **400. LOGO.**

As often as possible some form of the logo will be used on publications of the Beef Council. A ~~copyright has been approved for the logo.~~ (7-1-93)( )